DOCUMENT RESUME

ED 423 099 RC 021 652

AUTHOR Barnes, Catherine; Chakma, Suhas; Mohamed, Mohamed Hamud Sheikh; Thulin, Kristina Hedlund; Monzon, Ana Silvia; Stockman, Lorne; Sunderland, Judith
TITLE War: The Impact on Minority and Indigenous Children. MRG International Report 97/2.
INSTITUTION Minority Rights Group, London (England).; United Nations Children's Fund, New York, NY.
ISBN ISBN-1-897693-81-8
ISSN ISSN-0305-6252
PUB DATE 1997-11-00
NOTE 41p.
AVAILABLE FROM Minority Rights Group International, 379 Brixton Road, London SW9 7DE, United Kingdom; email: minority.rights@mrgmail.org; World Wide Web: www.minorityrights.org
PUB TYPE Reports - Evaluative (142)
EDRS PRICE EDRS Price MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS Child Welfare; *Children; *Childrens Rights; Educational Needs; Ethnic Discrimination; Foreign Countries; Health Needs; *Indigenous Populations; *International Crimes; Maya (People); *Minority Groups; Refugees; Violence; *War
IDENTIFIERS Bangladesh; Genocide; Guatemala; Somalia

ABSTRACT

In today's internal armed conflicts that pitch one group against another, minority and indigenous children are often seen as "legitimate targets" despite the wealth of international law to the contrary. This report focuses on three recent or current armed conflicts, drawing on interviews with children and others to piece together the effects these wars have had on the Jumma children of the Chittagong Hill Tracts of Bangladesh, the Maya children of Guatemala, and minority children of Somalia. Each case study provides the following: (1) background information on the conflict and intergroup relations; (2) details of violence and abuses against children (murder, torture, rape and other gender-based violence, forced recruitment as combatants, witnessing of human rights violations, loss of family and community, displacement as refugees, disruption of family and community life and infrastructure); (3) children's needs for education, health services, and rehabilitation support; and (4) recommendations to the national government, indigenous organizations, and the international community. Final sections sum up the findings and offer general recommendations to the international community. (Contains 63 references, notes, maps, an explanation of abbreviations, and text of United Nations resolutions on minority rights and children's rights.) (SV)

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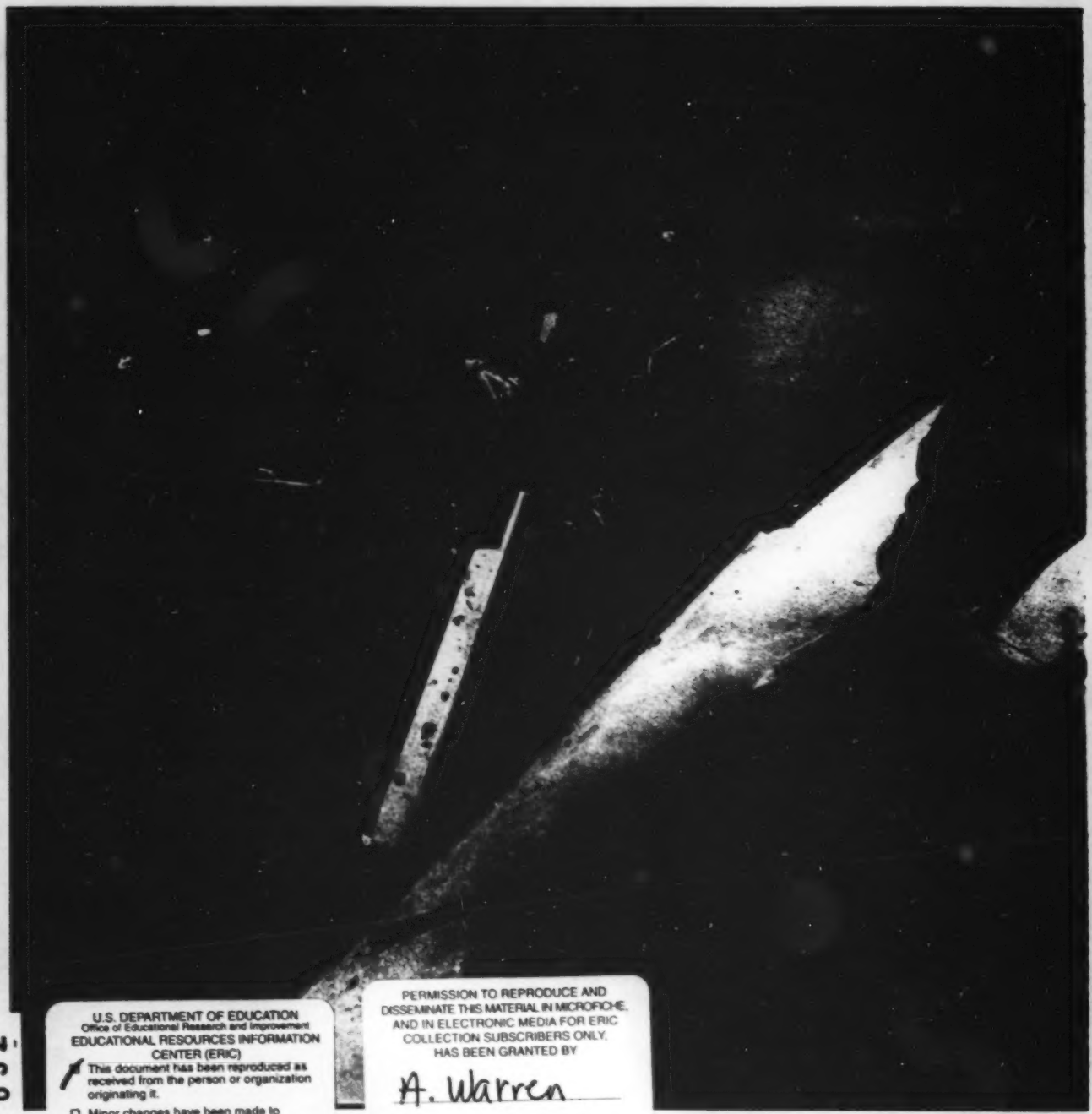
REPORT

War: The Impact on Minority and Indigenous Children



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WAR: THE IMPACT ON MINORITY AND INDIGENOUS CHILDREN

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British Library Cataloguing in Publication Data
A CIP catalogue record for this book is available from the British Library
ISBN 1 897693 81 8
ISSN 0305 6252
Published November 1997
Typset by Texture
Printed in the UK by Redwood Books on Bleach Free Paper

This Report is published with the permission of UNICEF and constitutes, in part, a revised and updated version of MRG's contribution to the UN Report on *The Impact of Armed Conflict on Children*.

Acknowledgements

Minority Rights Group International (MRG) gratefully acknowledges the support of the Finnish Ministry for Foreign Affairs, and all of the other organizations and individuals that gave financial and other assistance for this Report. Paivi Hernesniemi contributed to the completion of the Report during her internship at MRG.

This Report has been commissioned and is published by MRG as a contribution to public understanding of the issue which forms its subject. The text and views of the authors do not necessarily represent, in every detail and in all its aspects, the collective view of MRG.

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MINORITY RIGHTS GROUP INTERNATIONAL

Minority Rights Group International works to secure rights and justice for ethnic, linguistic and religious minorities. It is dedicated to the cause of cooperation and understanding between communities.

Founded in the 1960s, MRG is a small international non-governmental organization that informs and warns governments, the international community, non-governmental organizations and the wider public about the situation of minorities around the world. This work is based on the publication of well-researched Reports, Books and Papers; direct advocacy on behalf of minority rights in international fora; the development of a global network of like-minded organizations and minority communities to collaborate on these issues; and **the challenging of prejudice and promotion of public understanding** through information and education projects.

MRG believes that the best hope for a peaceful world lies in **identifying and monitoring conflict** between communities, **advocating preventive measures** to avoid the escalation of conflict and **encouraging positive action** to build trust between majority and minority communities.

MRG has consultative status with the United Nations Economic and Social Council and has a worldwide network of partners. Its international headquarters are in London. Legally it is registered both as a charity and as a limited company under the English law with an international Governing Council.

THE PROCESS

As part of its methodology, MRG conducts regional research, identifies issues and commissions Reports based on its findings. Each author is carefully chosen and all scripts are read by no less than eight independent experts who are knowledgeable about the subject matter. These experts are drawn from the minorities about whom the Reports are written, and from journalists, academics, researchers and other human rights agencies. Authors are asked to incorporate comments made by these parties. In this way, MRG aims to publish accurate, authoritative, well-balanced Reports.

Displaced Somalis gesticulating to a US Marine patrol going through a displaced people's camp in Southern Somalia

HOWARE | DAVID | MAGNUM PICTURES

War: The Impact on Minority and Indigenous Children

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Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (Adopted by the UN General Assembly; Resolution 47/135 of 18 December 1992).

Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.
5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group, with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights including those as set forth in this Declaration individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights as set forth in this Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programmes of co-operation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, *inter alia* exchanging of information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights as set forth in the present Declaration.

Article 8

1. Nothing in this Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.
2. The exercise of the rights as set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognised human rights and fundamental freedoms.
3. Measures taken by States in order to ensure the effective enjoyment of the rights as set forth in the present Declaration shall not *prima facie* be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.
4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9

The specialised agencies and other organisations of the United Nations system shall contribute to the full realisation of the rights and principles as set forth in the present Declaration, within their respective fields of competence.

Geneva Conventions of 1949 (Humanitarian Law)

Article 3 Common to the Four Geneva Conventions

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

UN Convention on the Rights of the Child (Adopted by the UN General Assembly; Resolution 44/25 of 20 November 1989)

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Preface

According to the United Nations International Children's Emergency Fund (UNICEF), every year approximately 400,000 children die from wars and related causes in 'developing' countries alone. Around the world, the number of children who survive, yet are adversely affected by all the other consequences of war – rape, torture, physical injury, the witnessing of atrocities, psychosocial and emotional trauma, the dislocation of families and whole communities, and the disruption of essential services – is far greater. International concern to improve the care and protection of children in times of war led to the appointment in 1994 of Graça Machel as Expert to the United Nations (UN) Secretary-General on the Impact of Armed Conflict on Children. Machel conducted a two-year study and presented her Report on *The Impact of Armed Conflict on Children* A/51/306, Add.1, to the UN General Assembly in November 1996.

MRG contributed to the UN Report by commissioning background studies on the impact of armed conflict on children of minority and indigenous communities. Because four-fifths of today's armed conflicts are internal ones, usually involving dominant and less dominant ethnic or religious groups, MRG believes that it is often the more disempowered communities who suffer most in times of war. Within such communities children are among the most vulnerable of all.

In publishing three of the above-mentioned studies (now revised and updated) in this MRG Report, undertaken with the permission of UNICEF, we aim to take forward the findings and recommendations of the UN Report by highlighting the special experience and needs of minority and indigenous children, among all those children who undoubtedly suffer the consequences of war. In particular, these studies remind us that the denial of minority rights can, in itself, be a prime cause of conflict. In many countries, minority and indigenous children represent the transmission to future generations of a culture different from the dominant one, therefore they are often specifically targeted by those bent on cultural genocide. Even after a conflict the marginalization of minority communities can lead to their being overlooked during the planning and delivery of humanitarian aid and reconstruction programmes.

The 1989 UN Convention on the Rights of the Child (CRC) is a key instrument for the protection of the rights of all children, including minority and indigenous children. Ratified by the largest number of states in the shortest period of time in UN history, it provides that every child has the right to life, survival and development; that no child under 15 should take part in hostilities; that children should not be separated from their parents except for their own wellbeing; that states should protect children from harm and neglect; and that children of minority and indigenous populations should freely enjoy their own culture, religion and language, as well as all of the other rights enshrined in the convention, without discrimination.

Yet, the underlying principle of the CRC – that childhood should be a time of security, hope and promise – is often far from the reality, even in peacetime. While many children from both majority and minority communities suffer severe hardship in many parts of the world, most available evidence indicates that minority and indigenous children are significantly more disadvantaged in terms of education, health and poverty than their counterparts who belong to dominant communities.

Such differences are all too readily exacerbated during armed conflicts, as the studies included in this MRG Report demonstrate. Whether a minority is expressly targeted by more powerful groups – as in Bangladesh and Guatemala – or suffers through being relatively defenceless in a situation of virtual anarchy – as in Somalia – minority status increases the vulnerability of children who, simply because of their age, need special protection.

This MRG Report therefore stresses the importance of bringing the promotion of minority and indigenous children's rights to the forefront of the international debate about the welfare and protection of children. Steps to secure the rights of such children can also be an effective way to address the causes of intercommunity tension that, in turn, can lead to internal armed conflicts. One of the general recommendations of the Report is that the Committee on the Rights of the Child, as part of its work in monitoring the implementation of the CRC, should consider the rights of indigenous and minority children as a topic for discussion.

MRG believes that it is valuable to continue to monitor and work for the protection of minority and indigenous communities and their children in emergencies and after conflicts. For this reason we have begun to consult widely as to how a greater awareness of minority needs during emergencies may be promoted, and to press for a deeper understanding of the minority dimensions of armed conflict. MRG organized an international workshop on training and the needs of minorities in armed conflicts as part of its seminar on minority rights training, held in April 1997.

In addition, we hope that the present Report will contribute to an increased understanding of the often perilous situation of minority and indigenous children and of their need for special protection. Through efforts to protect such future generations, humanity can enhance its own cultural and ethnic diversity and, arguably, its prospects for survival.

Alan Phillips
Director
September 1997

Abbreviations

CHTs	Chittagong Hill Tracts
CHTC	Chittagong Hill Tracts Commission
CPRs	Communities of Population in Resistance
CRC	Convention on the Rights of the Child
Declaration on Minorities	Declaration on the Rights of Persons belonging to National or Ethnic,Religious and Linguistic Minorities
Draft Declaration on Indigenous Peoples	Draft Declaration on the Rights of Indigenous Peoples
FDNG	New Guatemala Democratic Front
ILO	International Labour Organization
JSS	Jana Samhati Samiti
MINUGUA	United Nations Verification Mission in Guatemala
NGO	non-governmental organization
NHRC	National Human Rights Commission of India
PACs	civil self-defence patrols
PGT	Guatemalan Workers' Party
SAHRDC	South Asia Human Rights Documentation Centre
SNM	Somali National Movement
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Emergency Fund
UNOSOM	United Nations Operation in Somalia
UN Report	*The Impact of Armed Conflict on Children*, A/51/306, Add.1
URNG	Guatemalan National Revolutionary Unity
USA	United States of America
USC	United Somali Congress
WHO	World Health Organization

Introduction

Children in armed conflicts

An estimated nine out of 10 victims of today's armed conflicts are civilians, and more than half of the civilians are children. According to international humanitarian law, designed to protect people in times of war, only combatants are legitimate targets. Civilians, the wounded and other non-combatants without the means to protect themselves, should not be attacked. On the contrary, they should be respected and protected. Yet, in the armed conflicts of the late twentieth century, children fare extremely badly; as has been shown in the UN Report, children are often made the target of attack.

Children witness atrocities, even murder, committed against their parents and relatives. They are forced to leave their homes and become internally displaced people in other parts of the country. Many live as refugees in neighbouring countries or on other continents. Girls are routinely raped by fighters from all sides. Even in seemingly safe environments, such as refugee camps, girls are at great risk of harassment and sexual abuse.

In fleeing attack, children often get separated from their families. As in Rwanda they might be picked up by other families and brought to refugee camps. Even if the parents or other relatives are found, the conflict can make it virtually impossible to reunite children with their families.

Many children in conflict areas suffer from malnutrition and disease. Health programmes, medicines and vaccination campaigns do not usually reach these children. Their education is interrupted. In refugee camps even basic schooling is rarely available for all children, while adolescents have very little hope of secondary or higher education.

In today's wars, thousands of children are used as soldiers. With light, modern, easy-to-handle weapons, very young children can be recruited. Child soldiers are not generally treated any differently from adult soldiers: they are abused, tortured and subjected to the same discipline as all other soldiers. Many children cannot keep up with the hardship of soldiering and get left behind when wounded, or are shot trying to escape.

All children are affected by wars. However, because minority and indigenous children belong to already marginalized groups, such children are often in an even more precarious situation than children from majority or dominant groups. As the three case studies in this Report show, children from minority and indigenous communities are frequently treated as enemies; and when law and order break down, there are few or no safeguards for their protection.

International law

This Report defines a child as a person under the age of 18, basing its definition on that of the CRC. The convention is built around the notion of the best interests of the child and requests states to ensure that the child is respected and treated as a full legal entity at all times. In principle, international law affords strong protection for minority and indigenous children and their communities. The CRC specifically refers to the protection of children in armed conflict and the four Geneva Conventions for the protection of victims of war (1949), and their additional protocols (1977), include extensive protection for civilians and the right to emergency relief.

Rights and freedoms enshrined in the International Covenant on Civil and Political Rights (1966); the International Covenant on Economic, Social and Cultural Rights (1966); and in various regional human rights instruments, apply equally in war as in peacetime. Moreover, they include minority and indigenous children in their application. All of these instruments take non-discrimination and impartial treatment as their starting point, irrespective of a person's nationality or ethnic origin. In addition, there are specific rights for minorities and indigenous groups. Members of the UN have underlined these rights in the 1992 UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities).

The CRC and the Geneva Conventions with their additional protocols have been virtually universally ratified. Almost all governments of the world are legally bound to apply them. If a government or any of its representatives violates the rules, the government may be held accountable. If the violation amounts to a war crime, the individual perpetrator may be tried by the international community.

The Declaration on Minorities, being a declaration, is not a legally binding instrument. Nevertheless, in adopting the declaration, states have expressed their understanding of the rights of minorities and of the protection and assistance to which such groups are entitled. Governments cannot be held accountable for violations of a declaration but may be asked by the international community to explain acts contrary to the declaration's meaning and intention.

International law has traditionally been developed to regulate interactions between sovereign states. In conventions and other international treaties, states agree to give up part of their sovereignty in exchange for the same concession by others. They have a common interest in upholding the system of obligations. So, for example, states have agreed to protect other states' nationals if taken as prisoners of war, and to care for wounded enemy soldiers, in exchange for the enemy doing the same.

In today's wars such reciprocity breaks down. Few international armed conflicts occur; wars are now fought almost entirely internally, usually between a government

and one or more armed opposition factions. In some conflicts there is not even a state, as in Somalia. Armed opposition groups cannot ratify treaties of international law because they are not states, and are seldom prepared to accept international obligations that their enemy may have entered into. States, for their part, have generally not been willing to grant the same concessions to non-state entities as to other governments.

Furthermore, many states argue that internal conflicts are not a matter for the international community at all. Such states argue that these conflicts are strictly an internal problem of 'banditry' involving 'criminals', and should therefore fall under domestic law. This view has until relatively recently dominated the international community's perception of internal wars. On various occasions, however, as a result of growing international awareness of mounting atrocities and of deteriorating situations for civilian populations, the international community has decided to act. One such instance is described here in the study of Somalia. In many other conflicts, such as that in the Chittagong Hill Tracts (CHTs) of Bangladesh, the international community has chosen not to act.

Wars without rules

Rules of protection in internal armed conflicts – most notably Article 3 common to the 1949 Geneva Conventions, the second additional protocol to the same conventions, and Article 38 of the CRC – are not as numerous and extensive as those for international wars between states. But they include a broad spectrum of rights for non-combatants and of obligations on the fighting forces and groups. They continue to follow the notion that parties to internal conflicts have an interest in fighting a 'decent' war, with the objective of gaining control over a population and an area.

Even this limited set of rules has become less applicable in today's internal conflicts; reasons for fighting may not be 'political', as understood for civil wars in the past, but span a broad spectrum from competition for economic and natural resources, to attempted genocide or even unrestrained lawlessness. In such situations, and especially in conflicts where ethnicity is a strong component, the warring parties are often not prepared to acknowledge the existence of civilian populations and other non-combatants. To them it is not relevant whether the people being attacked have weapons to defend themselves, nor whether they are children. Since they belong to the same group as the enemy, they are seen to have no right to life. Attempts have been made to root out 'enemy' populations in several conflicts, one of the most blatant being in the recently-ended war in Guatemala.

A further characteristic of today's internal wars is the lack of control within the ranks of fighting factions. Although higher commanders might see advantages in not upsetting the international community by violating human rights, it is virtually impossible to uphold even a minimum of law and order if the central leadership has little or no control over local commanders. Respect for the law can quickly break down in such situations, together with respect for the equal value of all human beings. In the past, even where a fighting faction has not been an internationally recognized government, the international community has sometimes found ways to influence such power structures. With parties to internal conflicts now increasingly fragmented and uncoordinated, the international community will need to find new ways to influence their conduct. This is especially urgent in countries with no central or recognized government, as in Somalia.

Minority and indigenous children

Some people may wonder what there is to be gained by highlighting the plight of minority and indigenous children in times of war, given that all children suffer in conflicts. Yet the studies in this Report show that there are clear justifications for raising the special needs of minority and indigenous children: where children are seen as the 'enemy' and where there is a breakdown in law and order. One or more of these situations usually prevails in today's internal conflicts.

In many conflicts, ethnic groups are the explicit target of attack. This might occur because a minority or indigenous group is perceived as a particular threat to the state, or is seen as an obstacle to 'progress' by a repressive regime, as has happened in Bangladesh and Guatemala; and a minority then takes up arms to defend itself. Or, as the tragedy of Bosnia has demonstrated, it can be a case of one ethnic group targeting another.

To the extent that minority and indigenous children depend, arguably more than majority children, on the integrity of their communities for their survival and healthy development, the former suffer particularly badly when their communities come under attack. Moreover, such children may be seen as the 'future enemy' and specifically targeted with the purpose of destroying the enemy's chance of surviving into the future. Boys are forcefully recruited as soldiers and turned against their own community. Girls are raped as a means of terrorization and to make them pregnant – children born from these rapes will seldom be recognized as fully belonging to the minority or indigenous group.

Where opposing armed groups have weak or non-existent structures of command, discipline among soldiers is low and power exists at gunpoint, already marginalized minority and indigenous groups are often the worst protected of all, and the first to be displaced. Once outside the conflict area, as internally displaced people or as refugees, children from such communities find it difficult to retain the identity of the group. For unaccompanied minority and indigenous children, camp authorities may be unable to locate foster families from the same ethnic group or may be ignorant of their special needs.

Children of minority and indigenous communities, like other children from conflict areas, have horrifying war experiences, and all need psychosocial support and rehabilitation. Experience has shown that children are best supported within their communities by people traditionally responsible for their wellbeing. A culturally sensitive approach to psychosocial support is especially important for minority and indigenous children.

From recognition to action

The international community; intergovernmental organizations; non-governmental organizations (NGOs); and,especially humanitarian organizations that offer relief, protection and longer term support to children affected by armed conflict, are now well acquainted with how today's wars are fought. Governments that may be in a position to influence parties to such conflicts, or even to intervene, should be attentive to signs of deteriorating situations for minority and indigenous populations. International and local humanitarian organizations should plan their relief and support activities to ensure as far as possible that their efforts reach the most vulnerable and marginalized groups.

However, prevention is always better than cure. The world has learned to recognize and respect the special vulnerabilities and needs of children and, increasingly, of minorities and indigenous peoples. A concerted effort is needed to foster respect for minority and indigenous children and their communities, and to promote intercommunity understanding as the best means of protecting such communities and children from the atrocities of war.

The case studies featured in this Report on Jumma Children of the Chittagong Hill Tracts of Bangladesh, Maya Children of Guatemala and Minority Children of Somalia are revised and updated versions of the texts submitted by MRG to the UN Report. They are offered here as an indication of the scale of the task that faces us and as a contribution to meeting that challenge.

Jumma children of the Chittagong Hill Tracts of Bangladesh

Background

The Chittagong Hill Tracts (CHTs) in south-eastern Bangladesh are sandwiched between the Arakan hills of Burma and north-east India. The CHTs consist of several valleys running in a north-westerly to south-easterly direction and constitute 10 per cent of the total land area of Bangladesh. For the last few centuries, 10 different ethnic nationalities have shared the rugged horseshoe of mountains that surround these valleys: the Bowm, Chak, Chakma, Khiyang, Khumi, Lushai, Marma, Murung, Pankoo and Tripura. They are collectively known as Jumma on account of their shifting – or *jum* – method of cultivation. The Chittagonian Bengalis use the term Jumma in a pejorative sense, but it has been adopted by the indigenous CHTs peoples to assert their collective distinct identity.

The Jumma peoples belong to the Tibeto-Burmese linguistic group and differ from the mainstream Bengali Muslim population of Bangladesh in culture, customs, religion and in their world-view. Chak, Chakma, Khumi and Marma profess Buddhism; Tripuras follow Hinduism; and Bowm, Khiyang, Lushai, Murung and Pankoo practise Christianity. Their population is currently around 7.5 million.

In 1860, the British government brought the CHTs (known as Chadigang by the Jummas) under its direct administrative control. Thereafter, it was always administered as a separate area.[4]

The post-independence period

The roots of the CHTs crisis lie in the partition of the Indian subcontinent at the end of colonial rule. The hill peoples of the CHTs never consented to their land being awarded to Pakistan. The decision was made during the course of political negotiations between the future leaders of the Indian and Pakistani governments and British officials, without consultation with the indigenous peoples of the area.

The Pakistani administration from 1947–71, consistently sought to erode the constitutional and administrative safeguards of the Jummas accorded by the British administration. In 1964, the Special Area Status of the CHTs was abolished. When the Kaptai hydroelectric dam was built in 1961, 40 per cent of the total cultivable land was submerged and one-sixth of the Jumma population was displaced without adequate compensation.

After Bangladesh's independence in 1971, the hill peoples wanted the CHTs to have legal constitutional status. In 1972, a team of Jumma delegates, under the leadership of Manabendra Narayan Larma, sought autonomy with self-legislature and the further extension of the Chittagong Hill Tracts 1900 Regulation. These demands were rejected.[5]

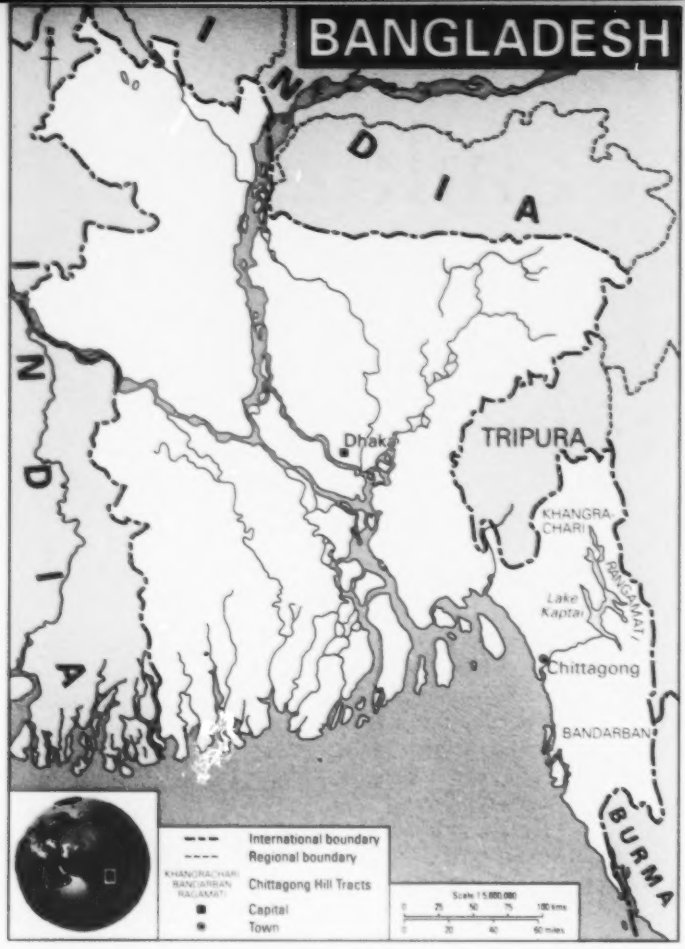
Initially, Jummas sought recognition of their distinct identity and autonomy within Bangladesh's constitutional framework using non-violent methods. However, Bangladesh's military rulers instituted the Political Parties Regulations Ordinance (1976), which virtually banned all independent political activities. The Jana Samhati Samiti (JSS), the Jummas' political organization, then went underground and activated an armed wing, the Shanti Bahini (Peace Force), to press for greater autonomy.

Militarization and armed resistance

After 1976, thousands of Bangladeshi security forces were deployed in the CHTs to counter the Shanti Bahini. According to a 1984 Survival International publication,[6] around 80,000 military and paramilitary forces were deployed. The government, however, has consistently denied the presence of such a large number of security forces. In 1990, they put the number of troops at around 30,000.[7] Jenneke Arens, of the organizing committee of the Netherlands-based Chittagong Hill Tracts Campaign (CHTC), says:

> *'Even if it is "only" 30,000 troops in the Hills, this would still mean that there is one member of the security forces for every 20 hill people. That is about one for every 3 or 4 nuclear families.'*[8]

The CHTs continue to be a militarized zone. Militarization was followed by a government-sponsored 'Population Transfer Policy'. President Zia-ur Rahman chaired a secret meeting in 1979 when it was decided to settle 100,000 Bengali Muslim families from other dis-



tricts of Bangladesh in the CHTs.[9] This policy was in direct contravention of the Chittagong Hill Tracts 1900 Regulation and was greeted with strong opposition and protest from the Jumma. Jummas continue to view these illegal settlers as a threat to their identity.

Since 1976, the Bangladeshi security forces stationed in the CHTs have, in effect, ruled the area. Numerous civilian Jummas have been killed by the forces, often in reprisal raids following attacks by the Shanti Bahini on law enforcement personnel and Bengali settlers.[10] Many Bengali settlers have participated in attacks by the security forces, in groups organized and armed by the state; other state-sponsored paramilitary forces are also active in the CHTs. There is no evidence to suggest that any of the security forces or settlers have been prosecuted for these killings. Successive governments in Bangladesh's capital, Dhaka, have operated a *de facto* policy of granting immunity to law enforcement officials without regard to their human rights abuses.

There have been several attempts to settle the conflict. In 1985, military officials of Dhaka held discussions with the JSS with little success. On 10 August 1992, the JSS declared a unilateral ceasefire as a gesture of its willingness to negotiate a political solution to the crisis. The JSS had 13 rounds of discussion with the previous Bangladesh National Party government and four rounds of discussion with the present Awami League government up until 11 May 1997. In September 1997, the JSS and the Bangladeshi government made an important breakthrough in their sixth round of discussions and announced that an agreement would be signed at their next meeting.

Armed conflict and Jumma children

Throughout the conflict, Jumma children have been arbitrarily arrested, detained, raped, tortured, burnt to death, and murdered at bayonet point. For example, on 13 June 1986, Bengali settlers, with the support of Bangladeshi soldiers, attacked the Boalkhali *ashram* (religious centre) in Dighinala. Around 300 Jumma children, aged five to 12 years, were present and many were killed.

Human rights abuses of Jumma children and their families occur in the interior, far from media attention or institutions that could help them, and are therefore largely unknown by the international community. Information on the Jummas and the conflict in the CHTs is frequently censored by government officials on the ground of 'national security'. The picture is further obscured by what could arguably be described as self-censorship by some of the Bangladeshi media and human rights groups.

Bangladesh and the Convention on the Rights of the Child

Bangladesh ratified the CRC on 3 August 1990. However, the Bangladeshi government expressed reservations to Article 14 of the CRC which stipulates: 'States Parties shall respect the right of the child to freedom of thought, conscience and religion'. Bangladesh has reserved its accession to this article on the grounds that Islam does not permit conversion to other religions. The reservation marginalizes the 13 per cent of the population, including all the Jumma peoples, who are members of religious minorities.

Bangladesh has not taken concrete steps towards making national legislation compatible with the CRC. The government submitted its first periodic report to the Committee on the Rights of the Child three years late in December 1995.[11]

Extrajudicial killings, torture and impunity

Since 1971, over a dozen massacres have occurred in which Jummas have been attacked by the illegal settlers with the active support of the security forces. Many Jumma children have been killed and many have witnessed the murder of their family by army bullets or by being hacked to death with a *dao* (a type of machete). These children have suffered lasting physical, social, and psychological damage.

Arun, now aged 17 and living as a refugee in India, describes what happened in his village, Latiban, under Panchari police station:

> *'One day in 1986, we were all playing games in the afternoon. Suddenly, lots of army came and surrounded our village. I thought it was another search operation. But this time it was different. All the Jummas from a few villages were assembled under the banyan and mango trees nearby the main road. The army ordered the Jummas to line up facing the west as the army and the Bengali settlers surrounded us. The army then ordered killing the Chakmas. I saw our* ajhu *[grandfather] being hacked with a long* dao. *Then the next two or three people were hacked by the Bengali settlers. Suddenly, someone from the assembled Jummas said: "Run, otherwise all will be butchered." Then, everyone started running for their lives. The army did not fire but remained silent when the illegal settlers chased the Jummas with* daos, *sword and other weapons. Many Jummas, especially the children, were butchered on the spot. I did not have time to look at anyone and ran for my life … After trekking for two days, we reached Karbook in Tripura [India]. I realized then that I had left my family somewhere. I cried a lot. I did not know where were my parents, my brothers, and my sisters.'*

After three months, Arun was reunited with his family, but he is still affected by the events of that day. 'Sometimes in sleep, I dream the scenes – how *ajhu* and those who were next to him were hacked. I cannot sleep …'.[12]

Massacres in the CHTs, such as the one in Arun's village, are rarely investigated; prosecutions are virtually non-existent. For example, on 17 November 1993, more than 40 Jummas, including several children, were killed in Naniachar by the Bengali settlers and the Bangladeshi army. As a response to pressure by human rights activists, the government instructed Justice Habibur Rahman, as a one-person judicial inquiry commission, to investigate the killings. The Naniachar Inquiry Commission was supposed to submit its report within 30 days. The delegates of the Bangladeshi Permanent Mission in Geneva, while exercising the right to reply during the Thirteenth Session of the UN Working Group on Indigenous Populations,[13] stated that the Naniachar Inquiry Commission had submitted its report on 26 May 1994. According to the delegates, the government had accepted its recommendations and started judicial and departmental proceedings against the accused, and registered four cases. Yet, in mid 1977, three years after Justice Rahman submitted the report, its contents have still not been made public, and no information has been given as to the prosecution of the culprits.[14] Furthermore, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions[15] stated that he was not provided with full information on the killings at Naniachar by the Bangladeshi government. The Special Rapporteur urged the government to:

> *'Fulfil its obligation under international law to clarify the circumstances of each alleged violation of the right to life with a view to identifying those responsible and bringing them to justice, and to take appropriate measures to prevent similar acts from happening in future.'*

Article 37(a) of the CRC obligates states to ensure that:

> *'No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age.'*

Article 35[5] of the Bangladeshi Constitution also states: 'No person shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment'. However, Bangladesh has not ratified the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

Jumma children have been tortured, forced to watch the torture of their parents and forced to participate in torture. For example, on 30 March 1992, Gyana Ratan Chakma was murdered in front of his wife, Namata, and their four children. Namata Chakma broke down and began to cry. The Quartermaster of Rajmani Para Army Camp, Mohammad Safi, irritated by her crying, beat her, and her children were forced to watch.[16]

Research for this study has not found any cases of people having been convicted in civilian courts for human rights abuses in the CHTs: the prosecution of law enforcement officials can only take place with the government's permission. Section 132 of Bangladesh's Code

of Criminal Procedure states: 'No prosecution against any person for any act purporting to be under this chapter [Chapter X: Unlawful Assembly] shall be instituted in any court, except with the sanction of the government.' Furthermore, no magistrate, civil or military officer or any 'inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey, shall be deemed to have thereby committed an offence'. Criminal prosecution of law enforcement officials has been hampered by a lack of political will and the barriers to an independent judiciary.

Because perpetrators of gross human rights violations in the CHTs are not prosecuted, a culture of impunity has developed. By failing in its obligations to enforce human rights laws, and indeed national law, the Bangladeshi government has silently but effectively condoned these practices. This has been one of the most important factors in encouraging atrocities against the Jumma peoples.

Survival and development

Article 6(2) of the CRC stipulates: 'State Parties shall ensure to the maximum extent possible the survival and development of the child'. Article 4(1) of the Declaration on Minorities also urges states to: 'Ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and full equality before the law'. Yet, as this study documents, Jumma children are systematically denied these fundamental rights. Compared to their non-indigenous peers, they are denied an equal opportunity to survival and development.

One of the keys to children's survival and development concerns the family's ability to feed itself. The population transfer policy has undermined the Jummas' food security because most of the best farm lands are now in the possession of the Bengali settlers. The land that remains is insufficient to meet food requirements; the reduction in available foods has taken a toll on Jumma children's health. The forcible appropriation of Jumma land by Bengali settlers with the support of the local military authority has led to hatred as Jumma families struggle to feed themselves.

Rape of Jumma girls

In 1973, Lt Kabir lined up all of the Jumma teachers and students of Dighinala High School and proclaimed: 'There will be born a Bengali Muslim child in the womb of every tribal woman of the Chittagong Hill Tracts'. The students were all under 16 years of age.[17]

This speech portrayed threats to the physical integrity of Jumma girls and to the cultural integrity of the Jumma peoples. Jumma girls and women have persistently and systematically been raped during reprisal attacks and other military operations. For example, on 19 October 1990, Bangladeshi army personnel raped 14 Jumma girls in Baradam under Ranganti district, most of them under 18 years of age.[18] These rapes are used as a weapon to both intimidate the Jumma population and to annihilate their ethnic identity.

There have been consistent reports of rape of Jumma girls both by security forces and the illegal settlers. The personal trauma of rape, as well as the social stigma which accompanies rape, makes it difficult for Jumma girls to report it. Because of fear and intimidation, Jummas are scared to go to the police: the 'protectors' are often feared as the 'predators'.

Freedom of association

Article 15 of the CRC urges states to recognize the rights of children to freedom of association and to freedom of peaceful assembly. Article 4(4) of the Declaration on Minorities includes similar provisions. Young Jummas, however, have been consistently denied the right of freedom of association. For example, on 18 July 1995, members of the Hill Students' Council held a rally for the unconditional release of their leaders, who had been arrested. Police attacked the students with tear gas and arrested the minors on false charges. Those under arrest were jailed with other adult prisoners.[19] This is a violation of Article 40 of the CRC, the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the UN Standard Minimum Rules for Treatment of Prisoners.

Non-discrimination

Article 2(1) of the CRC provides that:

> *'State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's, or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.'*

Article 2(1) of the Declaration on Minorities stipulates that people who are members of minority groups:

> *'Have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely without interference or any form of discrimination'.*

Yet discrimination persists in the treatment of Jumma peoples and is perpetrated by the military authorities and other governmental and civilian bodies. For example, the Al Rabita, a non-governmental religious organization, operates hospitals in the CHTs, but refuses to provide treatment to Jummas unless they convert to Islam. Members of the Jumma Buddhist, Hindu and Christian Welfare Trust (which, ironically, is headed by a Muslim) are asked by the Central Audit Bureau to become Muslims when they apply for welfare funds from the government.[20]

Education

Article 4(3) of the Declaration on Minorities specifies:

> *'States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.'*[21]

These opportunities have not been promoted by the Bangladeshi government. On the contrary, the education of most Jumma children has been frequently disrupted. In the interior, many of their schools were burned down and others have been transformed into military camps. In August 1993, immediately after the declaration of universal primary education in Bangladesh, the government closed 12 primary schools in Bandarban district – an area with many Jummas – which provoked student protests.[22] Furthermore, the CHTC found that when education is available in the CHTs, 'it is designed to draw hill people into Bengali culture'.[23]

Jumma refugee children in India

India has accommodated many refugees fleeing the conflict in the CHTs. In recent years, however, it has begun to move towards rejecting them. After a series of massacres in the spring and summer of 1986, around 55,000 Jummas sought refuge in the Indian state of Tripura. The Longudu massacre on 4 May 1989 brought another 13,000 Jumma refugees to Tripura. In the aftermath of the Logang massacre on 10 April 1992, however, around 3,500 Jummas were denied refugee status by the Indian government.

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol provide the guidelines for the protection of refugee children. Article 22 of the CRC also requires states to provide refugee children with 'appropriate protection and humanitarian assistance'. Article 2 of the CRC provides that a state must ensure the rights of all children without discrimination of any kind. It implies that a child within a state's jurisdiction holds all the rights provided for in the CRC without any distinction between asylum-seekers and nationals.

India has ratified the CRC. The Indian government has therefore committed itself to provide the same quality of care and protection to all of the children under its jurisdiction, including refugees. India has not ratified the 1951 Convention Relating to the Status of Refugees, yet it is currently (1997) a member of the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR). As a member of this committee, India has a moral responsibility to adhere to the principles of the international conventions regarding the treatment of refugees. While India has provided support for these refugees for many years, it has denied access to the UNHCR and related relief agencies who would provide assistance for these exiled Jumma families.[24] This has also hindered the monitoring function these bodies provide.

Involuntary repatriation of the Jumma refugees

The Indian government has applied extreme pressure to force the repatriation of Jumma refugees. Jumma refugees were forcibly repatriated in 1979, 1981, 1984 and 1986, without any guarantees as to the security of their lives and properties. Many of the returnees were persecuted immediately after their repatriation.

Since October 1992, the Indian government has adopted a policy of voluntary repatriation by making conditions in the refugee camps unbearable. From 1986 to 1991, the Indian government provided various rations to the Jumma refugees. These included coconut oil, dried chilli, dried fish, firewood, milk powder, oil, pulses, a death allowance and 20 paise a day (equivalent to half a US cent). There is evidence, however, that many of these items have been suspended since 1991.[25] During the summer of 1993, the Indian press reported that malnutrition amongst Jumma refugee children had reached epidemic proportions.

In 1994, around 5,000 Jumma refugees returned to the CHTs 'under duress' of the Indian government.[26] South Asia Human Rights Documentation Centre (SAHRDC) filed a complaint with the National Human Rights Commission of India (NHRC) on 30 April 1994 alleging forcible repatriation on the basis of its investigation published in its report *No Secure Refuge*.

The Jumma refugees had little to return to in Bangladesh. Human rights groups in Dhaka conducted a survey after the first group returned in February 1994. Out of the 42 families they interviewed, 37 per cent had no control over their traditional lands.[27] Other research has shown that more than 103 families have not had their lands returned.[28] The returnee Jumma refugee children continue to find it extremely difficult to reintegrate in what is usually a hostile environment dominated by Bengali settlers.

The NHRC on the basis of complaints filed by the SAHRDC, sent an investigation team to the Jumma refugee camps from 24–28 May 1996. The team reported on the shortage of water, inadequacy of accommodation and woefully inadequate medical facilities. Their report stated that the rations were meagre and these were often suspended. The team found that many of the tube wells were out of order. The camps were also unclean and bore signs of neglect. The report noted that refugee children were suffering from malnutrition, water-borne diseases and malaria, yet there was no visible efforts to improve their living conditions.[29] The NHRC in its letter of 13 August 1996 stated that the investigation team 'attributed the problems faced by the refugees, to the callousness and hostility of the officials towards the refugees, accumulated over the years, as they are not keen to go back'.

In a report of 15 October 1996, the Returnee Jumma Refugees 16 Points Implementation Committee states that out of the 1,027 families consisting of 5,186 individual refugees, 25 returnee Jumma refugees who had earlier been employed in various government jobs were not reinstated in their previous jobs; 134 returnee Jumma refugee families could not settle on their own lands because they had been appropriated by the security forces and illegal Bengali settlers; and 79 families were not given back their

lands because they were under forcible occupation by the illegal settlers. The Bangladeshi government also registered false cases against 23 returnee refugees; many have since absconded.

The Indian government recently used 'invisible duress' on the Jumma refugee leadership to force it to agree to a process of repatriation without the voluntary character of the repatriation having been determined by either the UNHCR or the International Committee of the Red Cross and Red Crescent. In March–April 1997, 6,178 Jumma refugees were repatriated.[30]

The NHRC has given a series of directions to improve the conditions of the Jumma refugees.[31] Yet the situation remains deplorable as government officials continue to flout the NHRC's recommendations.

Medical facilities

Article 24 of the CRC urges states to take appropriate measures to provide medical care so that children can achieve the highest obtainable standard of health and rehabilitation. Jumma children in the refugee camps do not have access to adequate health care or to other resources that would support their physical and emotional recovery from their experiences in the CHTs. According to SAHRDC: 'To describe the medical facilities in the camps as minimal would be a generous statement since at the moment they are practically non-existent'.[32] On the rare occasions that doctors do visit, they usually issue prescriptions, however the refugees do not have the money to buy the medicines.

In the past, camp administrators were able to make some necessities available to refugee children. For example, immediately after the first influx of refugees, the Indian government provided milk and other facilities for new-born babies and children. Since September 1991, the supply of milk has stopped.

Educational facilities

Article 22(1) of the 1951 Convention Relating to the Status of Refugees stipulates that: 'The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education'. This obligation is supported by the CRC which requires that every child must have free, compulsory, primary education and access to secondary and higher education (Article 28).

The Tripura government, implementing the policy objectives of the central government, does not fulfil these responsibilities for Jumma refugee students. The educational facilities in the refugee camps are minimal. Volunteer teachers from the camps are given a small monthly honorarium to teach an estimated 10,000 students in the camps. The government has provided some basic materials, yet the quantity is insufficient. For example, in 1994, for the 528 students in the Karbook Camp High School, there were only 92 textbooks.

The biggest barrier to education was the Tripura government's refusal to allow refugee students to sit the tenth class board examinations or metric examinations. As soon as children had completed their tenth year of schooling, their education stopped. These students were not entitled to a certificate to prove completion of a certain standard – a qualification that is essential for further education if they ever return to Bangladesh.

In 1997, after requests from Jumma leaders and others, the Tripura government allowed the students to appear for the Tripura Board examination. However, there are no facilities or infrastructure for the refugee children. Hundreds of Jumma children have been denied educational facilities in the last decade. Kripa Kanti, aged 14, epitomizes the situation of many of these young people; their opportunities to engage in traditional livelihoods have disappeared and they are simultaneously denied the education that would prepare them for other options:

> *'We cannot go back to our home. Our lands have been occupied by the settlers and now they are cultivating it. We will not be able to cultivate our lands. The Bengalis and the army will attack us. Here, we can at least sleep without fear of being attacked or killed. But again, I cannot go to school. I am in class eight and after one more year I cannot study further as we cannot appear in Tripura Board examinations. We are refugees.'*[33]

Access to NGOs

The deficiencies in providing adequate education, food and health care, cannot be attributed exclusively to the lack of Indian government resources to address these needs; the government has prohibited international NGOs from operating in the refugee camps and from providing assistance through local NGOs. For example, the Netherlands Refugee Foundation awarded a grant to the Humanity Protection Forum (HPF) for a project to promote education and the handloom and handicraft industry among Jumma refugees. The HPF secured the necessary permission from the Union Home Ministry of India regarding foreign contributions to NGOs. The government withdrew the permission and the HPF queried this decision on the 28 May 1993. The HPF was given permission only in 1996 to implement the project.

Conclusions

Throughout the period of armed conflict in the CHTs, there has been a proliferation of UN declarations, conventions and enforcement mechanisms, and various public statements by the world's leaders pledging to uphold human rights. Yet, Jumma children are still struggling for their physical survival.

Human rights abuses against Jumma children and their families have been systematic, persistent and pervasive. Violations have taken different forms depending on whether they occur in Bangladesh or in the refugee camps of India. In Bangladesh, the Jumma communities are targeted because of their different ethnic origin, colour, culture, language, religion, and, most importantly, their land. In India, they appear to be caught in a geo-political climate that makes them unwelcome and vulnerable guests, and basic provisions are being withheld in order to encourage their departure.

The armed conflict in the CHTs costs the Bangladeshi national exchequer 10 million Bangladeshi taka per day (over US $2 million) to maintain. Yet no major political party has ever taken a clear position on the situation of the Jummas. Many believe that this is indicative of an attitude of indifference among political leaders.

Governmental authorities, through military deployment and the non-prosecution of human rights violations, have given the security forces a licence to kill Jumma civilians and to deny their other basic human rights. A just and lasting political solution to the CHTs conflict will depend, in part, on the guarantee of full human rights protection with mechanisms for monitoring compliance. This would create the basic conditions necessary for all the children of the region to achieve their fundamental rights as children and for the governments of Bangladesh and India to fulfil their human rights obligations.

At the same time, the protection and promotion of the rights of children, of minorities, and of people in general, can be the key towards addressing the sources of the conflict. The Bangladeshi government could hold current and past violators accountable for their actions and take an important first step towards building confidence among the Jummas to resolve the conflict.

Military force will not resolve the conflict between the Jummas and the Bangladeshi government; a process of serious negotiations leading to a political solution is necessary. While there have been negotiations, little progress has been made. As long as the Bangladeshi government continues to shield human rights violators, it is unlikely that any negotiations can be held in good faith. A demonstrable commitment to finding a peaceful solution is necessary. The alternative is a continuation of the violence, to which the Jumma children remain the most vulnerable. The experience of armed conflict has had an undeniable psychological impact on these children. Eyewitnesses to extreme violence, they have imbibed a culture of hatred and a sense of moral alienation that will persist into adulthood and continue to fuel further conflict.

Recommendations

The Bangladeshi government should:

1. Withdraw its reservations to the CRC and make domestic laws compatible with international human rights instruments. It should submit its reports to the Committee on the Rights of the Child on time.

2. Institute judicial inquiries into the human rights violations of the Jumma peoples, publish such reports and prosecute those responsible under national criminal law. It should allow full and unrestricted access to independent international human rights monitors to support local investigations.

3. Take measures to implement the provisions of the Declaration on Minorities and the Draft Declaration on Indigenous Peoples, the CRC and the Economic and Social Council Resolution (1989/65) pertaining to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. It should extend an invitation to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to visit Bangladesh.

4. Facilitate the flow of humanitarian assistance to the affected civilian population in the CHTs and the free flow of information about matters of humanitarian and human rights concern. The government should allow the International Committee of the Red Cross to undertake its operations in the CHTs and allow the UNHCR to provide rehabilitation assistance to returnee Jumma refugees.

5. Return lands forcibly occupied by non-Jumma settlers to the original owners, and pay compensation to people who have been forcibly relocated.

6. Take measures to stop gender-based violence against Jumma girls and order inquiries into cases of alleged rape, prosecuting perpetrators.

7. Make resources available, in keeping with Article 39 of the CRC, to 'promote the physical and psychological recovery and social reintegration [of rape survivors and other child victims of violence] … in an environment which fosters [their] … health, self-respect and dignity'.

8. Allow young Jummas to enjoy the right of freedom of association and freedom of assembly. The UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the UN Standard Minimum Rules for Treatment of Prisoners should be strictly observed in the case of juvenile detainees.

9. Take measures to comply with the educational provisions of Article 28 of the CRC and fulfil the rights of Jumma children to learn and have instruction in their mother tongue at primary-school level.

10. Establish under the Constitution a statutory commission for minorities and indigenous peoples, whose membership includes minority and indigenous representatives.

The Indian government should:

11. Take measures to promote the health of Jumma refugee children and ensure its compliance with its obligations under the CRC and other international instruments.

12. Permit Jumma refugee children to appear in board examinations and create favourable conditions for higher studies.

13. Guarantee the free access of national and international humanitarian organizations, including the UNHCR, to the refugee camps and facilitate organizations seeking to promote the health of refugee children and to provide assistance in the rehabilitation of returnee Jumma refugees. Furthermore, it should stop the use of pressure to encourage the repatriation of Jumma refugees.

Maya children of Guatemala

Background

Guatemala is the most populated and ethnically diverse of the Central American republics. Twenty-one Maya peoples, each with their own distinct language, form the majority of its 10.3 million inhabitants. Figures for the percentage of the Maya population are widely disputed, but the general consensus is that the Maya form the majority of Guatemalan society. The remainder are *ladinos* – white Europeans, mixed-race Guatemalans and Maya who have adopted a European culture – and a small minority of Afro-Guatemalans and indigenous Xinka. Economic and political power has been in the hands of *ladinos* since the Spanish conquest in the sixteenth century. The Maya have endured discrimination, marginalization and periodic genocide ever since, most recently from 36 years of violence and repression during an internal armed conflict.

The land dispossession during the liberal revolution of the nineteenth century, accompanied by capitalist penetration, compounded the injustices of the colonial era; these are reflected today in one of the most inequitable land distributions in Latin America. Nearly 90 per cent of farms are too small to provide subsistence for a family, while 2.2 per cent of farms cover 65 per cent of the land.[1] Large plantations cover most of the fertile coastal strips, where landowners grow bananas, coffee, cotton and sugar for export. Small farmers, mainly Maya, grow subsistence crops (beans, maize and rice) on stony land in the highland mountains and many are forced to migrate seasonally to work for very low wages on the southern coast. Government figures show that two-thirds of the population live in poverty; 93 per cent of these are indigenous.[2]

Since 1954, when a United States of America (USA)-supported coup overthrew a government committed to social reform and land redistribution, Guatemala's history has been characterized by military rule and repression. The 1960s saw the emergence of a guerrilla movement which was to unite with the Guatemalan Workers' Party (PGT) under the banner of the Guatemalan National Revolutionary Unity (URNG). The decade also saw the rise of social movements demanding land and fair wages. Repression rose to new heights, exemplified by the burning down of the Spanish Embassy on 31 January 1980, which was occupied by a group of 39 Maya land activists, creating fertile ground for recruitment into the armed insurgency. After a succession of military governments, the army restored civilian rule in 1985 but maintained political control.

Although the 1985 Constitution recognizes the Maya as a people and provides for equality, *de facto* discrimination has excluded the Maya from the economic, legal, political and social systems of the country. Where concessions have been made, as in the government's limited bilingual education programme, they have been designed to integrate the Maya into non-Maya culture. Also, while the Maya filled the ranks of the URNG, the guerrilla organization's class analysis did not allow for the incorporation of indigenous issues until very late in the conflict.

On 29 December 1996, the government and the URNG signed the Firm and Lasting Peace Agreement, putting an end to the armed conflict with a series of accords signed over three years of UN-brokered negotiations. The accords include commitments on human rights, indigenous rights, resettlement of displaced peoples and refugees, socio-economic issues and the strengthening of the civilian state. The UN Verification Mission in Guatemala (MINUGUA), established in November 1994 to verify compliance with the Comprehensive Agreement on Human Rights, is now charged with monitoring the implementation of all the peace accords.[3]

The peace process counted on the input of the growing Maya movement for cultural, economic and political rights. The past decade has seen – despite pernicious discrimination and the suffering inflicted by the conflict – the emergence of a plethora of Maya organizations working at the community and national level on a broad range of issues. A symbol of this new movement was the award of the 1992 Nobel Peace Prize to Rigoberta Menchú, which gave Maya organizations international recognition for the first time. The government and the URNG were forced to begin to address the individual and collective rights of the majority of the population.

The general elections held in November 1995 showed the first tentative increase in Mayan political participation. Nobel Laureate Menchú launched a civic campaign to rally Maya voters to participate in the democrative process. A new party, the New Guatemala Democratic Front (FDNG), fielded a K'iché leader as its vice-presidential candidate. An unprecedented number of Maya local political organizations won in municipalities, including in Quetzaltenango, the country's second largest city. While Maya representation in Congress remains disproportionately low, the 1995 elections laid the foundation for increased political inclusion in the future. The legislature, dominated by President Alvaro Arzu's centre-right supporters, complied with the government's commitment in the peace accords and ratified International Labour

Organization (ILO) Convention no. 169 Concerning the Rights of Indigenous and Tribal Peoples in Independent Countries in early 1996.

The war seriously affected indigenous children. They were the targets of a systematic, cultural, physical and psychological terror. The CRC, the Declaration on Minorities, the Draft Declaration on Indigenous Peoples and even the Guatemalan Constitution (1985) are all relevant to the protection of minority children, and were written and/or ratified after thousands of indigenous children were massacred or subjected to cruel treatment.

Children in the battle zone

Article 38(4) of the CRC stipulates: 'State Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict'.

From 1978–85, at the height of the war, successive military regimes implemented a 'scorched earth' policy aimed at defeating the guerrillas, eliminating their social and political base, and wiping out all opposition. The Maya, as combatants and civilians, represented most of the estimated 150,000 victims, and left behind over 50,000 widows and 250,000 orphans. The brutal counter-insurgency campaign launched by the *de facto* head of state General Ríos Mont in 1982, destroyed at least 440 Maya villages in areas where the guerrillas were said to have a stronghold. The army called it 'scientific killing' with senior officers selecting communities for 'elimination' from a map at the operation's nerve centre. The conservative Guatemala City daily *El Gráfico* called it simply 'genocidal annihilation'. In the early 1980s, more than 180,000 Maya fled to Mexico. Another 500,000 or more became displaced people in provincial towns or in the capital. Others hid in the tropical forest and mountains in the extreme north of Guatemala.[38]

The May 1978 massacre of over 100 children, men and women in Panzós, Alta Verapaz, marked the beginning of a period of relentless repression, the full details of which are still coming to light. On 17 July 1982, troops killed over 350 people, including at least 87 children aged seven and under, in La Finca San Francisco in Huehuetenango. According to a survivor:

> *'They took out all of the mothers and killed them all ... then they took out all the little children two-years-old, a year and a half, three-years-old ... Children aged 10, 12, eight, five, six, they took out, also in groups ... They killed them with machetes ...'*[39]

The exhumation of mass graves by the Anthropological Forensic Team of Guatemala (EAFG) has provided graphic details of the violence. A study of the massacres perpetrated in three Q'eqchi' communities in Rabinal, Baja Verapaz, in the first half of 1982, found at least 345 victims. In Chuchipec (8 January), the majority of the victims were men, but two months later in Río Negro (13 March), of 143 skeletons exhumed, 85 were of children (the remainder were all of women). Likewise, in Plan de

Sánchez (18 July), over half the victims were aged 22 or under; two-thirds were women.[40] Other unearthed graves reveal the suffering of children. On 6 December 1982, 162 children, men and women were massacred in Dos Erres, El Petén. Of the 74 skeletons exhumed, 67 were of children under the age of 12. It is likely that new exhumations will reveal evidence of other massacres. It will be some years before the full horror of the period will be known publicly. The practice of targeting entire villages for extermination was replaced by more selective repression in the mid-1980s.

Children as enemies

> *'States Parties recognize that every child has the inherent right to life'.* (Article 6, CRC.)

It is difficult to establish the number of children killed during the armed conflict. Survivors' testimonies have consistently recorded the brutality reserved for infants, young children and pregnant women – with the army killing 'the guerrilla in the womb'. Maya children were reviled and targeted simply because of their ethnicity, perceived as future enemies and as potential revolutionaries. The rape of Maya women, and especially girls, was used as an instrument of terror and torture that would also mark the children born of this violence. Describing the massacres in Río Negro, a survivor said the civil patrollers involved in the massacre 'abused and raped the girls aged between 12 and 15'.[41]

Child soldiers and combatants

Indigenous peoples served as the cannon fodder in the armed conflict. Minors were recruited into the conflict in direct contravention of national and international law. According to the governmental Ombudsman's Human Rights Office, in 1991–4 alone, there were 388 reports of forced recruitment of minors.[42] Indigenous youths in rural areas have historically been the most at risk. Although compulsory military service was suspended in June 1994, MINUGUA has verified several cases of forced recruitment of minors since that time, as well as incidents of army falsification of identity papers to allow minors to join voluntarily. In one case, a 17-year-old soldier participated in the army attack on a refugee settlement in Alta Verapaz (see section on refugees below).

Adolescent boys were forced to serve as armed members in civil patrols. These patrols, known as PACs, were created in 1982 as 'auxiliaries' in Ríos Mont's counter-insurgency campaign. Almost 1 million boys and men were forced to patrol their communities, commit massacres and participate in army offensives. Along with military commissioners – civilian recruitment officers used as informants by the army – the PACs were instrumental in the polarization and militarization of Maya communities. Complaints of forced participation in the PACs have been lodged with MINUGUA.

Minors also participated in the ranks of the URNG. Up until 31 May 1996, MINUGUA had received two complaints of forced recruitment by the guerrillas; in one case, the 15-year-old involved denied his family's accusation and stated he had joined voluntarily.[43] Documented cases of guerrilla minors killed in combat contradict the URNG claim that young members held only support positions.

Orphans

Some 250,000 children were orphaned as a direct result of the repression. In many cases, these children witnessed the violent deaths of one or both parents, compounding the psychological effects of these losses. Soldiers implicated in massacres in El Quiché claimed once that: 'Their parents were subversives and that's why we killed them ... being orphans is what they deserve'.[44] The fate of these war orphans, the vast majority of whom are Maya, has varied. The government seldom provides appropriate support and protection, as stipulated under the CRC. The lucky ones have been cared for by family or community members. Others went to the few state- or privately-run orphanages. Some may have been purposefully conscripted into the military and incorporated into the URNG, though no statistical documentation exists. Children of the estimated 50,000 'disappeared' suffer the anguish of those who remain uncertain of their loved ones' fate. War orphans have also joined the growing population of street children in Guatemala City, an especially vulnerable group exposed to drug abuse, hunger and police brutality.[45]

Cultural uprooting and destabilization

> *'States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity.'* (Article 1[1] Declaration on Minorities.)

> *'Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, involving prevention of and redress for: (a) any action which has the aim or effect of depriving them of their integrity as distinct people, or of their cultural values or ethnic identities; (b) any action which has the aim or effect of dispossessing them of their lands, territories or other resources; ... (d) any form of assimilation or integration by other cultures or ways of life imposed on them by legislation, administrative or other measures.'* (Article 7, Draft Declaration on Indigenous Peoples.)

The Guatemalan army's counter-insurgency campaigns followed a logic of forced displacement and strategic rural transformation. Approximately 1 million people – one-tenth of the total population – were uprooted. Beyond the numbers, it is important to highlight the qualitative aspects of this cultural dislocation and disintegration, and the implications for the survival – both physical and cultural – of the Maya people. Despite the Guatemalan state's ethnocidal policies, the Maya's resistance and their sociocultural rebuilding are manifest in new forms of social and political organization.

Internally displaced people

An estimated 500,000 people were internally displaced by the violence. Entire families maintained their anonymity and silence, suffering exile in their own country. Having lost their identity papers, many were unable to find jobs and had to work in the informal sector, as domestic servants and street vendors. For the same reasons, many children were unable to attend school.[16] The 1980s saw the growth of urban slums ringing Guatemala City that lack basic sanitary conditions, drinking water and electricity. The hundreds of people living in and off the city's rubbish dumps attest to the precarious economic existence of these families. An internally displaced Maya elder recounts:

> *'A lot of us worked as refuse collectors, baggage carriers or shoeshiners. We didn't have any help, either from here or elsewhere. Many of our children are what's now known as street children, others can be seen selling chewing gum, sweets, whatever they can. Some of the indigenous women are prostitutes, you would never have seen that before.'*[17]

In Maya communities, children form part of the family economy and work from an early age. Child labour not only contributes to the family's subsistence, but many of the tasks are considered to be culturally and spiritually important. In contrast, the jobs undertaken by displaced children are demeaning and alienating. Maya children's loss of community networks, authorities and traditions has had a dramatic impact on their cultural identity. The hostility and discrimination encountered, as well as fear of recognition and repression, forced many families to stop wearing traditional dress and speaking their own languages. Although organizations such as the National Commission of Displaced Peoples of Guatemala were formed to defend common interests, displaced children in urban areas, unlike their peers in refugee camps or in the Communities of Population in Resistance (CPRs), have not benefited from new forms of social organization.

Children living under military control

Under Ríos Mont's 'pacification' programme – the second phase of the ethnocidal campaign – hundreds of families were herded into 'model villages' or 'development centres', where the army controlled their movements and activities. Peoples of different ethnic groups were deliberately placed together, forcing them to speak Spanish instead of their own languages. Testimonies from Q'eqchi' residents of Acamal, Alta Verapaz, indicate that the villages were designed to indoctrinate support for the army and the state. The government hoped to create 'an "ideologically new" population, manipulating Q'eqchi' culture to transmit this message'. According to Carlos Aldana, of the Archbishop's Human Rights Office, the daily contact with their communities' aggressors in the model villages has left the deepest imprint on children.[18]

The military is the most visible state institution in rural Guatemala and has extended its control through the civil patrols and military commissioners. Fear of army retaliation ensured cooperation by most patrollers; in some areas, however, the PACs embraced their tasks with zeal. 'The strategy of the civil patrols was a military strategy implemented through the civilian population. Now, the military strategy is encrusted in the civilian population', according to one government official.[19] Throughout Maya communities, the PACs replaced traditional indigenous authorities and subverted customary law either in service of the military's interests or to the personal advantage of patrollers. The PACs carried out disinformation campaigns and used threats and violence to silence human rights activists.

Children of the CPRs

In the early stages of the war, thousands of Maya fled to remote regions of the country to escape the violence and military control. From the early 1980s, 15,000–25,000 led a semi-nomadic life, forced by constant army harassment to abandon make-shift homes and subsistence crops. Settlements were eventually established in the Ixil and Ixcán regions, in northern El Quiché and in El Petén. After a decade of secrecy, the CPRs made their existence known in the early 1990s.

Conditions in the CPRs were extremely harsh. Hundreds of children were reported to have died during their first months in the mountains and jungle areas due to the inadequate diet, inhospitable climate, and poor hygiene. These ancillary deaths were more numerous than those directly inflicted by the military, but were caused by the same repression.[20] Despite acute poverty, the children of the CPRs are, in some ways, more fortunate than many Maya youths. The communities developed collective forms of self-management to meet education, health and defence needs. According to one researcher, they now form the only group in Guatemala where illiteracy has been eradicated, a fact 'stated with pride by them and their parents, and with embarrassment by everyone else'.[21] The CPRs may also have served to create an isolated environment in which children grew up with a strong cultural consciousness and pride. Yet the CPRs' future is uncertain.

Refugee children

An estimated 200,000 Maya sought refuge in other countries during the armed conflict, principally in Belize, Canada, Honduras, Mexico and the USA. Most of the information available concerns those who settled in Mexico. Some 45,000 people were placed in camps by the Mexican government with the assistance of the UNHCR. Many settled without the necessary papers and survived with the help of indigenous Mexicans. The decision to flee was often taken after days, weeks or months of hiding in the Guatemalan mountains. One refugee girl explained:

> *'We were six months in the mountains before leaving for Mexico, because we thought that it would only be for a while, that the repression would soon end and we would be able to return to our homes.'*[22]

The psychological and physical effects of the long journey into Mexico took its toll. Many children died from cold and malnutrition, diarrhoea and measles. The harsh conditions in the camps meant continued health prob-

lems. The army, accusing the refugees of URNG sympathies, launched incursions onto Mexican soil in the early period of settlement in the southernmost state of Chiapas. As a result, thousands of refugees were resettled, often against their will, to camps in Campeche and Quintana Roo.

As in the CPRs, refugees made their own arrangements for education, health care and basic needs. Many Maya believe they have profited from the experience: 'We learned to organize ourselves to improve our lives; we have health promoters, teachers, midwives, women's groups, religious organizers,' according to one refugee. From another: 'Here, I've learned a lot, [including] Spanish. We've learned to work collectively ... as a community'.[33] The camps brought together different Maya groups previously separated by geography and language.

In January 1993, the first massive return of 2,400 refugees to the Ixcán took place from Mexico amid great publicity and high expectations. The reality has been less auspicious. Children born in exile and brought up in Mexico – a significant percentage of the refugee population – have had difficulty in adapting to their new surroundings. For example, many children in the returned communities in the Ixcán, a remote, sparsely populated jungle region, long for 'roads, cars and electricity'.[34]

The returns, many to areas of strategic importance to the military and the URNG, began in the context of continued armed conflict. Returnee settlements have been harassed by the army and civil patrols from neighbouring towns. In what MINUGUA described as 'the most distressing event ... since the beginning of the Guatemalan refugee return to their native land', an army attack on the resettled community of Xamán, Alta Verapaz, on 5 October 1995, left 11 people dead, including three children, with 23 wounded.[35] The ending of hostilities, and the specific accord on uprooted populations, should provide greater guarantees for the return of the 30,000 refugees still in Mexico.

Education, health and support for recovery

> *'States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development'.* (Article 27, CRC.)

Guatemalan children have seldom enjoyed the full range of rights guaranteed by international conventions. Even their most basic needs are barely met. Education and health indicators show alarming deficiencies for most Maya and *ladino* children, yet the levels are consistently worse among the former. The armed conflict has intensified the age-old discrimination to which the Maya have been subjected since the European conquest of the Americas. Appropriate health care and education are crucial to the development of children's intellectual, physical and social wellbeing. Inadequate provision of these services constitutes a violation of children's rights.

Education

The CRC guarantees a child's right to education (Article 28). Maya children should be guaranteed the right to education 'in their mother tongue, upholding their community's culture and traditions' (Declaration on Minorities, Articles 2[1] and 4, and ILO Convention no. 169, Articles 28 and 29).

According to government figures, only 57 per cent of indigenous children aged 10–12 are registered in elementary schools, compared to 73 per cent of non-indigenous youngsters; with boys outnumbering girls. In 1993, only 3 per cent of schools offered bilingual education; only 2 per cent of children who finish the fourth grade have access to this. Sixty per cent of all indigenous peoples are illiterate, compared with 24 per cent of their non-indigenous counterparts. The situation is even worse for indigenous women, 72 per cent of whom cannot read or write.[36] With the lack of support for girls' access to education, they are destined to become 'women deprived of power'.[37]

Beyond the inadequacy of school facilities, there are other reasons for low attendance. Economic necessity leads many families to keep their children out of school. Moreover, assimilationist educational policies have discouraged placing a value on formal education, while traditional gender roles in Maya communities prioritize boys' education. The Indigenous Accord outlines a broad model for educational reform to ensure access to bilingual programmes and school curricula that respect cultural diversity. A commission, composed of government and Maya representatives, is charged with designing specific proposals.

Health

> *'States Parties recognize the right of the child to enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health'.* (Article 24, CRC.) *'The enjoyment of health is a fundamental human right, without any discrimination'.* (Article 93, Guatemalan Constitution.)

According to the World Health Organization (WHO), 'health is a state of complete physical, mental and social wellbeing and not simply the absence of disease and infirmity'. The ideological, political and socio-economic conditions that have shaped Guatemala are linked to more than three decades of war and have led to a significant deterioration in Maya children's physical and mental health. This is particularly true for those who lived through the war at its height in the 1980s. Many children have suffered the loss of limbs, sight or hearing, or have brain damage caused by bombings, landmines, shootings and torture.[38] Although a UN-supervised mine clearing operation was implemented in early 1997, fears persist of undetected mines and discarded grenades.

Maya children, from infancy through adolescence, constitute a high-risk group for chronic health problems. Infant mortality rates for the Maya are 87 for every 1,000 live births; 70 for *ladinos*. Preventable problems associated with poor living conditions such as intestinal and respiratory infections, and nutritional deficiencies, are the leading

causes of premature death among children. Government statistics show that 40.6 per cent of Maya children are underweight, compared to 28.6 per cent of *ladino* children. Chronic malnutrition affects 72 per cent of Maya children aged three months to three years and 56 per cent of *ladino* children. Maternal mortality per 10,000 births is 22.5 per cent for indigenous women, compared to 9.6 per cent for *ladino* women.[59]

Mental health

> *'State Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhumane or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.'* (Article 39, CRC.)

The armed conflict has devastated the lives of thousands of people of all ages. It is the children of Guatemala, however, who will bear witness to the psychosocial effects of living in a culture of violence and fear. Maya children in particular have been victims, witnesses or participants in the violence. Families have been broken up by deaths and disappearances, displacement has divided children from extended families and other support neworks. Fear and mistrust have replaced old links of communal solidarity among indigenous communities; only within families do strong ties persist.[60] Children who lived through the most violent period of the conflict, roughly 14 years, are today's mothers and fathers.

The way in which children have 'internalized' the war, with its authoritarianism and the dehumanization of people, represents a serious obstacle to the harmonious coexistence of different peoples, genders and social classes in post-conflict Guatemala.[61] In particular, children recruited into the military were:

> *'Psychologically broken down and then rebuilt as killing machines through violence ... beatings ... [and] denigration ... If thousands of soldiers, who have been taught to kill and been traumatized by acts of terror, are simply returned to their communities without any psychological support, then the horror will continue.'*[62]

As members of a marginalized ethnic group, Maya children face discrimination and suffer the psychological aftermath. Added to this ethnicity-based discrimination is gender inequality. Prevailing gender norms have meant that boys are exposed to more war-like values and have a higher participation in violent acts, whereas girls have suffered systematic rape and its attendant consequences.

Conclusions

The armed conflict in Guatemala has compounded the Maya's historic exclusion from the minimum benefits of development, and the social and economic injustices suffered by the nation's children. The ethnocidal campaign that specifically targeted Maya children claimed tens of thousand of lives, and permanently marked many more. The commitments contained in the peace accords address, directly or indirectly, the welfare of Guatemala's children.

The Agreement on the Identity and Rights of Indigenous Peoples is one of the most complex and potentially far-reaching accords of the overall peace package. The Indigenous Agreement defines Guatemala as a 'multi-ethnic, pluricultural and multilingual' nation. It promises the introduction of anti-discriminatory legislation and pledges a number of measures to increase Maya participation in society. Bilingualism in state services, from education to the justice system, is to be promoted. Access to the justice system is pledged through the creation of indigenous legal aid organizations, special defence services for indigenous women, and the training of bilingual judges and interpreters. In addition, Maya authorities are to be strengthened through greater municipal autonomy. The agreement establishes five commissions to study the administration of sacred Maya sites, educational reform, indigenous land rights, the officialization of indigenous languages, political reform and participation. In addition, Maya authorities are to be strengthened through greater municipal autonomy and the recognition of customary law.

The Agreement on the Strengthening of Civil Power and the Function of the Army in a Democratic Society calls for a new military service law that would take up the demand of Maya organizations such as the National Commission of Guatemalan Widows for a social service alternative, as well as the reduction of the armed forces by 33 per cent. In keeping with a provision of the same agreement, Congress officially disbanded the PACs in November 1996. However, reports that many patrollers have not handed over their weapons fuel concerns that the PACs could become viligante groups working for wealthy landowners in a climate of increased struggle over land rights.[63]

The Agreement on the Resettlement of Populations Uprooted by the Armed Conflict affirms the right of all displaced peoples, within Guatemala and outside the country, to voluntarily return and establishes broad provisions for the concession of land and sustainable development programmes to facilitate economic reintegration. A fair process will prove lengthy and complicated. The army purposefully repopulated many areas with communities aligned with the military, and ideological disputes have served as a pretext for accentuated communal conflicts over land and resources. These conflicts reproduce the dynamics of the war itself, pitting Maya against Maya in a struggle for basic rights which should be guaranteed by the state.

The Agreement on Socio-economic Aspects and the Agrarian Situation commits the government to increasing spending on health and education by 50 per cent over 1995 levels (in proportion to Gross National Product [GNP]) by the year 2000. Specific health goals include the reduction of infant and maternal mortality rates by 50 per cent over the 1995 level and the eradication of polio and measles by the year 2000. The study and practice of traditional indigenous medicine is to be encouraged. The government commits itself to ensuring at least three years of

education for all children aged seven to 12, and increasing literacy to 70 per cent by the turn of the century. In recognition of the organizational experiences in refugee and CPR communities, the Agreement for Resettlement provides for the evaluation and accreditation of education and health promoters, and the certification of formal and informal education achievements of uprooted populations.

Overall, the peace package offers cause for cautious hope in a better future for Guatemala's children. The full and thoughtful implementation of the accords is paramount to a process of democratization and development that can begin to repair the ravages of the armed conflict. The resistance of Maya children in situations of exile and internal displacement has helped to move these communities towards their rightful place in society. It is now the collective responsibility of all Guatemalans to ensure that the rights of children, with particular attention to the Maya, are protected and promoted.

Recommendations

The Guatemalan government should:

1. Urgently tackle the legacy of grave violations of children's rights – and any continuing violations – prosecuting those responsible where sufficient evidence is found. There should be an end to impunity for the perpetrators of such crimes.

2. Strengthen bilingual education, support the educational initiatives established by Maya communities and implement a non-discriminatory school curriculum.

3. Promote harmonious coexistence between Maya and *ladino* cultures, in accordance with Article 29, of the CRC, and also study the suggestions of Article 16 of the Draft Declaration on Indigenous Peoples.

4. Give particular attention to the physical and psychological recuperation of Maya children affected by the conflict, providing psychosocial care, as part of primary health care, in the mother tongue and in culturally appropriate settings.

Maya organizations should:

5. Make the practical solution of Maya children's problems a priority, drawing up concrete proposal and presenting them in such national meetings as the Guatemalan Commission for the Convention on the Rights of the Child, the Unit for the Child Worker in the Ministry of Work and Social Planning, and the Defender of Children in the Ombudsman's Human Rights Office.

The international community should:

6. Support the implementation of all the peace agreements and help ensure the participation of civil society. MINUGUA's verification of compliance should include greater attention to children's rights.

Minority children of Somalia

Background

Somalia lies in the horn-shaped, semi-peninsula of north-east Africa flanked by the Red Sea to the north and the Indian Ocean to the east. It borders Kenya to the south, Ethiopia to the west and Djibouti to the north-west. Recent UN and World Bank research estimates Somalia's population to be c. 9 million, of whom 46 per cent are under the age of 15. Most of the land is hot and semi-arid. Livestock production is the main occupation of at least 50 per cent of the population and forms the basis of the economy. Nomadic lifestyles shape the dominant values of the society. Another estimated 25 per cent of Somalia's population are agro-pastoralists, the majority of whom live in the country's only fertile agricultural land, between the Juba and the Shabelle rivers, which flow through the south. Subsistence farming is also practised in a small highland area in north-west Somalia.

Approximately 25 per cent of the population is urban. Urbanization is mostly a recent phenomenon in Somalia. A few coastal towns were established centuries ago by immigrant communities from Arabia and from the other regions. These older settlements include the Red Sea port cities of Berbera and Zeila in north-west Somalia ('Somaliland')[64] and the cities of Brava, Merca and Mogadishu on the southern coasts of the Indian Ocean.

Most Somalis follow the principles of patrilineal kinship and lineage segmentation. This system divides Somalis into six major clan-families that, in turn, branch out into many clans and numerous sub-clans. These larger groupings are the Darod, Dir, Hawiye and Issaq, who are considered collectively as descendants of the Samaale; and the Digil and Rahanweyne clan-families who are categorized as the Sab group. The Sab group are mainly agro-pastoralists who live in the fertile plains between the rivers. The first four Samaale clan-families are mainly nomadic pastoralists who inhabit the arid central and northern range-lands. This group of traditionally nomadic clan-families have dominated political affairs in Somalia, often at the expense of other groups.

The social division through clan formation and lineage segmentation plays an important role for Somalis. Access to resources, security, and social status depend largely on position along this social scale. A person's self-identification in this lineage segmentation is situational and is based on the needs of an alliance necessary to safeguard mutual interests. The clan organizational system also tends to be characterized by shifting lineage allegiances. Power and politics rely on temporary coalitions. These alliances change according to the character of the conflict and those involved.

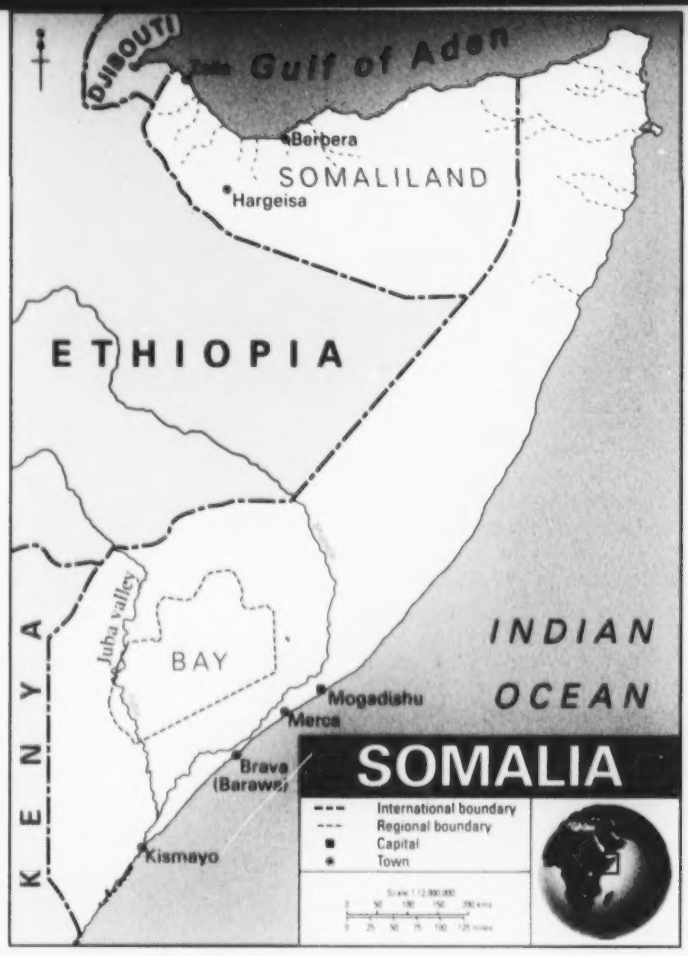
The most functional of the alliances, and by far the most stable, is the system based on *diya*-paying.[65] This system involves the corporate payment and collection of blood-money in cases of murder and a collective response to any threat to the security of its members. *Diya*-paying groups vary from several hundred to several thousand people. The cohesion of the members of these groups is further enhanced by pragmatic social contracts. These group dynamics operate during armed conflict, when protection and revenge are often determined by the relations between and within these groups. Those outside the system, including members of most minority groups, are especially vulnerable to attack.

Minority groups

Somalia is generally perceived by outsiders to be one of the world's few states with a homogeneous population. Anthropologists have tended to stress the dominant nomadic values and the idea of the 'pure Somali'. Revealingly, there is no word for 'minority' in Somali. Yet some estimates place Somalia's minority population at one-third of the overall population prior to the recent war.[66]

In Somalia, the characteristic issues of ethnicity, language and religion are not the only factors which delineate groups as minorities. There is also a basic division in East African society between farmers, herders, hunter/craftspeople and merchant traders. These socio-economic patterns often correlate with group identity. In Somalia, where nomadic herders are dominant, other groups can be considered to be minorities.[67] This is especially true of groups that fall outside major clan lineage divisions; they are in a disadvantaged position, even if some have other resources that put them in an economically advantageous position. They are outside 'clan law' and, except where they have patrons or patron-clans to support them, this lack of legal protection puts them at the mercy of arbitrary action. In general their small numbers, low socio-political status, and weak military capacity leaves them vulnerable.

The following are some of the main groups considered to be minorities:



'Bantu' Somalis

'Bantu' Somalis are small-scale farmers or labourers and are mostly descendants of other East African peoples who were taken to Somalia as slaves in the nineteenth century. Scholars think it likely that they are also descended in part from an early non-Somali agricultural people. Most are Muslim, speak Somali and have become assimilated into local Somali clans or are linked to them as clients. Yet they have retained a low status and seldom intermarry. A number of Bantu groups, collectively known as Wa Gosha, live in the Juba valley. Other Bantu communities are located in the Shabelle valley or in the inter-river plane.

Benadari

Benadiri are the descendants of the early migrant settlers of the Somali coasts, probably from Yemen and further east. They developed the urban areas and are still strongly associated with them. These groups include: Hamari of the ancient Hamar weyn and Shangaani districts of Mogadishu; Bravanese of Brava (or Barawa) port; and the small seafaring Bajuni community of Kismayo and the small islands off the coast, many of whom have an affinity with other East African communities of Swahili origin.

Boni

Boni are hunter-gatherers, who inhabit the forests in the lower Juba region and across the border in Kenya.

Eyle

Eyle are traditionally a hunter-gatherer group who live in the area of Bur-Hakaba and the Bur-Eyle districts of Bay region.

Gaheyle

Gaheyle live in Sanag region and have a significant stake in the important business of frankincense and myrrh production. They ally themselves traditionally with the majority Darod. This alliance drew them into confrontation with the Issaq and they were dislocated after the Somali National Movement (SNM) militia/Issaq victory in the north-east region of Sanag.

Galgale

Galgale are a small community who lived east of Mogadishu in the middle Shabelle valley. They occupied a traditional role of subordination in a client relationship to the Abgal, with whom they shared the same territory. During its last days, the Barre regime armed the Galgale

against the Abgal. When the regime fell, Galgale experienced brutal Abgal reprisals and were driven out of their homelands.

Midgan, Tumal and Yibir

Midgan, Tumal and Yibir – the Baidari groups – are traditionally hunters, and leather and metal workers living in northern Somalia. Intermarriage is not practised and many of these groups are socially excluded.

Armed conflict and human rights violations

General Siad Barre came to power in a military coup in 1969. The Constitution of the Somali Republic was suspended, democratic institutions were disbanded, and civil liberties curtailed. The military regime initially enjoyed wide public support for its radical economic and social programmes. The regime declared war against 'clannism', depicting it as a divisive and 'backward' organizational system. It soon became apparent, however, that the rhetoric did not match the practice. After some initial successes, Barre's government became marked by corruption and misrule. The economy deteriorated and the early achievements evaporated.

General Barre increasingly tightened his grip on power and sought support from an inner circle of related clans. As a consequence, others were marginalized. This resulted in opposition to his government on the part of those excluded and some took up armed resistance. He responded with violent repression against the dissenting clans. The Darod, Hawiye and Issaq became the main targets of reprisals.

Armed rebellion organized along clan lines increased throughout the 1980s. By the end of the decade, the country was engulfed in a devastating civil war. Barre was defeated and ousted at the beginning of 1991. However, his defeat did not lead to peace, nor a change of government. Instead, the country fragmented as rival clan militias fought each other for control over territory and resources.

The collapse of the government, coupled with the rise of competing self-styled military leaders with their own clan-militias, brought about the disintegration of law and order. The anarchy that followed resulted in the destruction of many civilian communities. Areas of the south, in particular, became major battlegrounds. Contending militias confiscated livestock and food supplies, and destroyed other vital infrastructure. The international community's attention was drawn to the obstruction of food aid to children and their families, many of whom starved to death – particularly in the so-called 'triangle of death', in southern Somalia, during 1991–2. The desperate situation in this area prompted international intervention led by the UN and the USA. For the first time, the UN intervened in a collapsed country without a recognized government. Aid and humanitarian agencies mobilized to supply the population with food and other relief.

In Somalia, it is said that during times of conflict, seven categories of people are traditionally spared from harm and degrading treatment, even if they belong to the enemy: children, notable elders, envoys, orators and poets, peacemakers and mediators, sheikhs and religious leaders, and women. During the civil war, this traditional rule was disregarded. Neither traditional nor modern norms and institutions were able to hold the perpetrators accountable for their actions.

The situation of children from minority communities

Under General Barre, the existence and diversity of minority groups was played down to create an image of a homogeneous country. Minority groups were denied any political or social representation and their land was susceptible to confiscation by the government. Most minority groups did not take part in the struggle to bring down the Barre regime and few have military traditions. Therefore, in 1991, when the regime fell, these were the only groups who did not have armies, militias, or weapons to protect themselves.[68]

Members of many minority groups are embittered that they did not receive protection and support from the international troops and aid agencies who tried to provide relief and restore peace in Somalia. In their own way, these international efforts were also held hostage to militia leaders who would only grant them safe passage to work in areas that were beneficial to their clan groups. Yet some members of minorities also believe that these organizations did not adequately inform themselves about the situation of minority groups and did not consider their condition when designing relief operations.

Most minority groups depended on assets such as cultivated land, fishing boats or shops for their livelihood. These assets made them targets for armed militias and bandits. Because these groups were not part of major clan coalitions, all the militia leaders found them suspect. When one faction replaced another's control over a region, the new group would use this questionable loyalty as a pretext to loot the property of, and intimidate, the local minority residents. Their lack of kinship ties to members of the other major clans left them without the bonds that might have mitigated their treatment by the militias.[69]

The delivery of relief aid within the country has been controlled by the major clan groups. An Oxfam official stated that little aid tended to reach minority groups,[70] and that Bantu and Benadiri children faced and continue to face the highest incidence of starvation as a result of the war, primarily due to the inaccessibility of aid and the dispossession of their land and other assets.

Dr Ken Menkhaus, Special Political Adviser to the UN Operation in Somalia (UNOSOM) until April 1994, views the situation for Somalian minorities as critical:

> *'I believe that what we are witnessing today is the culmination of a long-term process of Somali conquest of remaining non-Somali populations in southern and coastal Somalia. Up until one hundred years ago, a variety of non-Somali groups inhabited much of the southern region of Somalia ... All of these*

groups have been progressively marginalized in the past century by southward Somali conquest. Since independence, these groups have seen most of their economic livelihood expropriated from them. The civil war may represent the last stage of the extermination of some of these groups from Somalia.[71]

Information regarding children from minority groups is scarce. During research for this Report, few humanitarian relief organizations and intergovernmental bodies were able to supply information about the conditions these children have experienced. This may be indicative of the lack of attention and support given to addressing the specific needs of minority communities, even though they have been among the most vulnerable during the war. The present study briefly analyzes the situation of the Bantu and then focuses on the situation of the Bravanese (Barawans), a Benadiri group whose experiences show the particular dilemmas of Somalia's minority groups and the impact of war on their children.[72]

Bantu/Wa Gosha

Bantu groups living in the area between the Juba and Shabelle rivers occupied prime agricultural land which was much sought after and eventually taken by the powerful militias. In 1991 it was observed that 'the Gosha have been harder hit by looting than any other social group'.[73] Although it was correctly predicted that worse deprivation was to come, the relative powerlessness of the unarmed Bantu meant that aid from international agencies was mostly diverted. Alienation from the land deepened the famine and farmers were summarily executed by the new landowners for taking crops, fruit, and even grass from plantations in their village.[74]

Some fled to refugee camps in Kenya. Others reportedly chose to remain, partly because the prospect of losing their homes and land forever was too painful. These families have become subservient to the militias. They tend what was once their own land for subsistence-level wages and pay rent to live in the homes they previously owned. There are reports that Bantu children have been forced to labour in the plantations taken over by the militias. This violates their right to protection from economic exploitation and from performing work that interferes with their education or is harmful to their development and welfare, as specified in the CRC Articles 32 and 36. There are also unconfirmed reports that Bantu boys as young as 10 or 11 have performed menial tasks for the militias; this places them in highly dangerous situations, such as distributing rounds of ammunition to trenched fighters in battle.[75]

Many Bantu women and teenage girls are reported to have been raped. Bantu advocacy organizations claim that rape survivors from their community have not received the attention given to those from other Somalian clan groups. For example, in a UNHCR refugee camp, a woman reportedly from the same clan group as the rapists was assigned to gather documentation and counsel Bantu rape survivors. They generally were unable to confide in her because of the shame they felt in discussing the rapes with someone perceived to be from the perpetrating group. Bantu leaders further claim that those who did disclose their experiences were not given the same treatment as rape survivors of other groups, who were taken out of the camps to be resettled in a third country.[76]

Many Bantu refugees in Kenya are ambivalent about returning to Somalia. A UNHCR field officer reported that roughly 75 per cent of some 10,000 Bantu residents in Kenya's refugee camps in late 1993 said they did not want to return to Somalia.[77] Some feel they will never again be secure in a Somali state and have expressed an aspiration to return to ancestral lands in other parts of east and south-east Africa. Another UNHCR officer indicated that some have traced their family history and have been repatriated to the country of their ancestors, while others remain in the refugee camps in Kenya waiting to see what will happen.[78]

Bravanese

The Bravanese, a coastal trading community, have lived for nearly 2,000 years in the port city of Brava. In 1993, a UNOSOM official wrote: 'No other ethnic or social group has experienced such sustained and brutal treatment at the hands of roving bandits and shifting armed factions'. He added: 'Other coastal peoples in southern Somalia, all associated with long-standing commercial activities, have experienced similar atrocities'.[79] Most Bravanese are now refugees in Australia, Britain, Canada, Kenya, Persian Gulf countries and the USA. They face the prospect of never being able to re-establish their community in Somalia. According to a UNHCR representative:

'In time of war, when force is all that matters, communities without weapons, allies or connections suffer: their women were raped, their homes and businesses were destroyed or looted, and many died on the high seas trying to escape from Somalia. There are indications that various militias continue to infiltrate the districts inhabited by minorities attempting to legitimize the takeovers by claiming that coastal gibil'ad *('white skins') are not really Somalis. Thus, the threat to Bravans is not only physical, it also touches on their very identity as Somalis'.*[80]

The authors interviewed members of a community of Bravanese refugees in London, in order to gain an insight into some of the events that took place.[81] Many Bravanese feel that they were always treated as foreigners and believe that this is partially due to their paler skin and different features. Bravanese language and culture are also distinct. Those interviewed believe that their community's success as traders and professionals was resented by other groups. According to 12-year-old Salim, even before the war other Somali children would taunt Bravanese children: 'They did not like us, I don't know why.'

Like the other minorities described here, Bravanese did not take part in the battle to depose General Barre and have no military traditions. They were therefore unarmed when the situation degenerated into civil war; their vulnerability made them easy targets for militias. Since the first raids on Brava in 1991, living conditions in

the city have been intolerable for the Bravanese. A former mayor of Brava recorded no fewer than 10 occupations of the town by various militias between January 1991 and May 1992.[52] The occupying troops stole Bravanese food supplies, vehicles, and other wealth. Rape of women and girls, as well as other acts of terror, are reported to have been widespread.[53] In all of these instances, Bravanese children suffered the consequences, either directly as victims or indirectly through the atmosphere of fear, insecurity, and loss of loved ones. Salim's sister, Savida, who was seven when the war started, explained: 'When the war began we could not go outside because they might kill you or kidnap you ... For the first year we slept most nights in the mosque, because the soldiers came at night to the house to steal.'

Salim and Savida lost their mother one night when soldiers came to raid: 'We were hiding in a secret passage way in the kitchen. Our mother was upstairs in the toilet, the soldiers heard splashing and they went up there. We heard a shot and then she was dead.'

Right to life and security

The CRC upholds children's inherent right to life and advocates children's right to survival and development. No reliable information is available about the numbers of Bravanese children who lost their lives or have been significantly harmed by the war. Accounts from survivors, however, indicate that children were both direct targets of warfare and suffered the ancillary consequences.

Bravanese children reported that they were in constant danger of being kidnapped and their lives were threatened by militias to pressure their families to hand over their wealth. According to Asha and Sharif, both aged nine at the time, two of their older sisters were kidnapped for ransom. One was able to escape; the other was later abandoned far from town.

As the war progressed, there was a scarcity of food in Brava; this led to many deaths. It was reported that most Bravanese who remained were not able to buy what little food entered the city because they lacked the money. Refugees reported that family gardens and the main market square became graveyards for the many people who died of starvation.

Rape as a weapon of war

Bravanese refugees interviewed by the authors reported that rape and violence against women and young girls were common throughout the civil war. A number of girls as young as 13 were allegedly abducted, raped, and dumped back in their neighbourhoods, or were raped in front of their parents. Abducted girls were sometimes forcibly married to militia men. For example, the Bravanese told the authors of a man who offered 'protection' to Bravanese families for the price of their daughter; he has 'married' a number of girls through this coercive arrangement.

The authors were told of girls who had jumped from roofs to commit suicide when threatened with rape. The community had to bear silent witness and Savida, aged seven at the time, recalled how many mornings at 6.00 am, she could hear the cries of those being raped. It is said that many girls have found it impossible to integrate into society after being raped, as they are considered 'unclean' and unmarriageable. Bravanese women say that rape was previously uncommon in Bravanese society. There is no infrastructure for counselling those who have been raped. Instead, most remain silent about their ordeal. Yet, everyone suffers from the collective memories.

Right to health and material wellbeing

Article 24 of the CRC specifies the right to enjoy the 'highest attainable standard of health' and, specifically, the provision of adequate nutritious food and clean drinking water. Children are also entitled to 'a standard of living adequate for the child's physical, mental, spiritual, moral and social development' (Article 27).

In 1991, the hospital in Brava closed and the health service has not been restored. Bravanese refugees claim that their medical supplies continue to be siphoned off before reaching Brava. Water supplies have been cut and people have been forced to draw water from contaminated wells. Sanitation conditions are poor and Bravanese leaders continually fear the outbreak of an epidemic.

Child labour

Bravanese refugees reported that young boys were forced to do menial tasks for the militias, such as carrying water. This pattern apparently continues today in a modified form. Brava's once booming fishing industry was mostly destroyed. The boats that remain are now controlled by militia leaders, who give the former owners and Bravanese boys little alternative but to fish in return for marginal wages. The chance that those who remain will recover their former businesses and occupations, or be able to educate their children, appears to be very slim. It seems likely that these children will experience continual violations of their right to be free from economic exploitation and from work that is hazardous or interferes with their education or development (Article 32, CRC).

Armed conflict and the need for recovery

Children who have witnessed murder and rape have been traumatized by what they have seen. For example, one woman told the authors how she was ambushed while travelling with her baby daughter. Several of the passengers were shot while her daughter watched. Since that time the child has suffered from nightmares and phobias, particularly concerning the colour red. In a refugee camp in Kenya, the little girl was given some strawberry jam and ran away screaming 'Blood! Blood!' Several years later, now in London, her mother reports that she is beginning to recover. The same woman said that other Somali children in the community in London suffer similar trauma. The children the authors interviewed spoke of recurring nightmares about the war, six years after leaving Somalia.

The CRC mandates that states should take appropriate measures to promote the physical and psychological recovery of children from armed conflict. Bravanese, however, feel that it is difficult to get culturally appropri-

ate support outside their community, and yet their community does not have the resources necessary to provide it.

The refugee experience

Refugees in Kenya

Refugee camps in Kenya are often segregated by clan and ethnic groups for their mutual protection. The Bravanese and most Benadiri people were in the UNHCR- and Red Cross-sponsored camps in and around Mombasa.[xi] The Kenyan government closed two refugee camps in 1995, but it allowed a few camps for Somalian refugees to remain open. The Mombasa camps remain open and are inhabited mostly by the Benadiri groups. Like many governments that find themselves hosting large numbers of refugees, the Kenyan government would like to find a way to repatriate the Somalis. According to a UNHCR official,[xii] there are over 140,000 Somali refugees in Kenya, more than half of whom are children. While Somalis are, in theory, given 'automatic' refugee status upon arrival in Kenya, they must remain in designated areas unless they are given specific, temporary permission to leave. There is little chance that they will ever be allowed to settle in Kenya.

While the UNHCR official claims that the Kenyan government has not attempted to stop Somalis from entering the country, Bravanese refugees in Britain who have been in Kenya claim that many are stopped at the border. The authors heard that one woman had fled Somalia on a boat which was denied entry but stayed around the Kenyan ports for 20 days until it ran out of food and water and had to return. Others reported that they had to bribe police and others to secure their passage, accounts which were confirmed by all the children the authors interviewed. While these may be isolated incidents, the situation for these refugees is made more difficult. Bravanese stated that members of their community once fled Brava because they feared being shot. The threat of violence remains, along with the added danger of starvation. Therefore access to safe places for asylum remains critically important.

Article 22 of the CRC obligates states to take steps to ensure that refugee children 'shall receive appropriate protection and humanitarian assistance' to enjoy their full range of human rights. This includes 'the highest attainable standard of health' (Article 24) and the right to education (Article 28).

Video footage[xiii] taken in the Benadiri camps in Kenya in 1993, indicates that the camps did not provide the conditions necessary to protect and promote the rights of children. In one camp 2,000 people lived in an area of 10–15 hectares. Another camp of 5,000 people had only 40 toilets. In most camps, the tents provided to families were disintegrating, leaked and provided no protection against mosquitoes. This has led to many deaths from malaria. Most people had no mattresses and slept on flattened cardboard boxes and wooden pallets. Educational opportunities were minimal. One camp had established a makeshift Koranic school, with volunteer teachers but no chairs or desks and few books. Overcrowding made it very difficult for the children to get any proper attention.

The situation of these refugees in Kenya is very precarious. Most agree that it is not safe for Benadiri refugees to return to Somalia. The Kenyan government is opposed to their integration in the wider society and wants to close the remaining camps. It is widely believed that most Benadiris place their most realistic hopes on immigration to other countries, particularly the USA where there are indications that they may be resettled.[xiv]

Refugees in Britain

The Bravanese refugees the authors interviewed in London could be said to be the fortunate ones. They are now safe and have at least a minimal standard of physical comfort. Yet these families report many hardships. Some of these difficulties are due to memories of their experiences in Somalia and Kenya and their fears for their loved ones who remain. Other problems are related to their cultural dislocation in a new environment. Like refugees from other conflicts, many Bravanese families were separated when opportunities arose for one of their members, particularly children, to reach safety in a foreign country. Children were sent to live with distant relatives in such diverse places as Australia, Scandinavia and North America. Now it is very difficult for these children to reunite with their immediate family due to restricted asylum rules. Bravanese families find these separations painful and the legal obstacles frustrating. The CRC, however, obligates state parties to 'ensure that a child shall not be separated from his or her parents against their will' (Article 9[2]) and to treat applications for family reunification in a 'positive, humane, and expeditious manner' (Article 10[2]) when the child has a legal right to remain in the new country.

Bravanese are traditionally very well educated and the refugees with whom the authors met all had strong professional qualifications. Many said that their children are experiencing difficulties in the British school system and are doing poorly as a consequence. Some children experience problems with learning English, others find it hard to adjust to a new social environment. The Bravanese parents believe that their children need extra support to adjust and do well. They would like this support to be offered both in the community and at school. One community leader argues that the Bravanese community in exile needs funding for community education that draws on British education while acknowledging the Brava's traditional educational methods. Many believe that education has direct implications for the continued existence of the distinct Bravanese identity.

> *'Traditional education preserved and communicated a great deal of Brava's cultural heritage ... There is clearly a need to bridge the gap between our children's educational entitlements in the United Kingdom and the traditional education that forms such a central part of the Bravanese inheritance.'*[xv]

These aspirations are consistent with the rights promoted in the Declaration on Minorities. States are required to take measures to 'create favourable conditions to enable persons belonging to minorities to express their characteristics and develop their culture, language, religion, traditions

and customs' (Article 4[2]). Specifically, states should provide adequate opportunities for people to learn in their mother tongue (Article 4[4]). These provisions are important to promote the human dignity of members of these groups and to ensure that their distinct cultural traditions can continue to survive, albeit in an ever changing and adapting form.

Bravanese in Britain have experienced problems when working with the British Home Office to secure their legal status. Bravanese are a linguistic minority within Somalia and many do not speak Somali dialects or English. When the Home Office arranges for a Somali interpreter to translate, the interpreter finds that some applicants do not speak Somali and therefore judges that they must not be from Somalia. Subsequently, the applicant is usually considered to be Kenyan (because he or she had arrived from refugee camps in Kenya) and is denied the Exceptional Leave to Remain status open to many Somali asylum-seekers.

These misconceptions are especially ironic because it is beginning to be recognized that Bravanese are unlikely to return to Somalia without facing severe persecution. According to the former UNOSOM official Ken Menkhaus:

> *'The Barawans [Bravanese] are likely to become a permanent exile community, whose fate will be either to become assimilated in various host countries or as small pockets of a Barawan diaspora. It is unlikely that they will ever be able to return to a viable life in coastal Somalia.'*[30]

The Bravanese refugees interviewed by the authors all once hoped that they would be able to return to Brava. Yet their city continues to be occupied by hostile militias and few believe that the situation will change soon. These Bravanese parents worry that their generation will be the last to experience life as members of a culturally distinct Bravanese community. They fear that their children will forget their language and traditions as they become settled in numerous foreign lands.

Conclusions

While aid and humanitarian efforts helped to ameliorate the situation for some during the post-1991 Somali conflict, members of Somalia's minority communities were often forgotten. They suffered disproportionately from the war and from the lack of relief aid. Without their own militias, many were vulnerable to almost continual warfare and occupation and have been excluded from the political process that might result in peace and the formation of a new state structure. Children from these communities have been especially vulnerable and have experienced widespread and consistent violations of their rights. Many children from minority communities remain in exile and are likely to do so for some time. Their situation both in Somalia and abroad as refugees is poorly understood. Little has been done to address their needs or to create an environment in which their rights can be protected and their best interests promoted.

As no recognized central government currently exists in Somalia, other states and international bodies have attempted to promote conditions to help protect basic human rights in that country. Some analysts are encouraged by signs that new state-like structures may be forming as certain leaders consolidate control. Yet militia leaders who are responsible for gross human rights violations continue to hold positions of authority and claim jurisdiction over the territories they hold, and the rights of children from minority communities in Somalia continue to be violated. International organizations have been able to do little to change these conditions. The apparent stability in many areas should not be confused with a just peace.

Members of minority groups remain unable to participate meaningfully in the political processes that may slowly begin to form a governing structure or structures in the region. Most of the district councils that were originally endorsed by UNOSOM II have not included minority group representation. These processes continue to be dominated by the major clan groups who had powerful militias. Action is urgently needed to protect and promote the rights of Somalia's minority communities as a whole. Unless systems are created that protect the rights of minorities it will be impossible to protect the rights of their children.

Recommendations

1. The international community should avoid condoning the current situation as satisfactory grounds for rebuilding Somali society. States that enter future relations with emerging Somali ruling powers should uphold Article 5 of the Declaration on Minorities by planning and implementing programmes of cooperation and assistance 'with due regard for the legitimate interests of persons belonging to minorities'. Potential donors and development agencies should also uphold this principle as a condition of aid and developmental assistance.

2. International bodies should be convened to investigate alleged human rights violations. Where sufficient evidence is available, perpetrators should be prosecuted in accordance with international law.

3. The involvement in the peace process of all of the minority communities in the country should be recognized as essential to support long-term peaceful reconstruction.

4. UN bodies should uphold their obligation to contribute to the full realization of the rights of minorities and should consider the best interests of minority children as a primary consideration. Particular efforts should be made to target relief and development efforts so that children from such communities benefit directly.

5. As long as conditions remain unsafe for the return of refugees from Somalian minority groups, host countries should take measure to ensure the protection and care of children affected by the conflict. Steps should be taken to protect minority children's rights, especially in

countries where xenophobia is increasing and creating a climate for legislation which restricts the right to asylum.

6. International relief organizations should assess the situation of child refugees from minority groups in Somalia, especially those living in camps in Kenya, and take measures to ensure that resources are available to promote children's survival and minimum health standards, as well as their intellectual and social development.

7. Host countries should take steps to provide the support necessary to enable members of Somalian minorities to express and develop their unique characteristics and identity, for example through special educational and other cultural provisions. These measures would fulfil obligations under the Declaration on Minorities and the CRC.

8. Where families belonging to Somalian minorities remain permanently as citizens in host countries, these countries should fulfil their obligations under the Declaration on Minorities (Article 2[2]) and take appropriate measures to enable them to participate effectively in the cultural, economic, public and social life of their new country.

General conclusions

As the case studies in this Report show, children belonging to minority and indigenous communities face particular threats during times of armed conflict, both as children and as members of minorities. On the one hand, such threats may be part of a deliberate policy on the part of governments, dominant groups, military or paramilitary forces to destroy minority and indigenous cultures. On the other, the situation may also arise as a result of marginalization and neglect when a minority group is not directly involved in the conflict.

Where a dominant group seeks coercively to assimilate members of a minority or indigenous group into the dominant culture, it may promote armed conflict with the intention of making it impossible for the minority or indigenous group to survive as a distinct community on its traditional territories. Policies are pursued with the aim of eradicating the identity and institutions of the group in order to eliminate the threat that the group is perceived to pose to the state. Child members of the group are often a particular focus of such policies; as *The State of the World's Children 1996* notes:

> *'The escalation from ethnic superiority to ethnic cleansing to genocide ... can become an irresistible process. Killing adults is then not enough; future generations of the enemy – their children – must also be eliminated.'*[30]

Whether arising from a deliberate policy or as the result of marginalization and neglect, the impact of armed conflict on minority and indigenous children includes: the loss of parents and other loved ones as a result of killings, arbitrary arrest and 'disappearances'; violence ranging from physical abuse to torture, mutilation, 'disappearance' and extrajudicial killing; gender-based violence such as rape, sexual humiliation and forced prostitution; forced recruitment and participation as child combatants or auxiliaries by government or rebel forces; the psychological and emotional violence of being forced to witness human rights abuses, including atrocities committed against family members; displacement within their countries and across frontiers as refugees; multiple additional physical dangers such as those caused by landmines and unexploded grenades; the destruction of property, homes, villages, crops, livestock, wells and other survival resources and the poisoning of watercourses; disruption and destruction of family and community life and infrastructure, including food supplies, sanitation systems, and health and education services; and the deep, persistent fear of many such occurrences.

As the UN Report acknowledged, children who have experienced such forms of abuse, violence, fear and distress – or who are threatened with them – are in the most urgent need of appropriate protection, care, and rehabilitation to promote their future psychosocial recovery and social integration. Yet, as the case study of Somalia included in the present Report demonstrates, minority and indigenous children frequently do not receive the same humanitarian relief assistance or post-conflict rehabilitation that may be extended to children of other communities.

In some cases, relief and emergency organizations have too little information on the existence of minority communities and the situation they face. In others, such organizations may lack access to areas where minorities are located because of geographical remoteness or because of the security risk to personnel. Organizers of relief operations may be forced to depend on the goodwill of authorities or militias which, deliberately or otherwise, effectively exclude vulnerable groups from a share of the aid.

The international community needs to become more sensitized to the particular vulnerabilities of minority and indigenous groups and their children before, during and after a conflict. Both reactive and proactive action is needed. The needs and aspirations of minorities cannot be overlooked without the risk of provoking new or resurgent conflicts. During emergencies, the predicament of minority and indigenous children need to be borne in mind at all times by those who seek to protect the vulnerable, relieve suffering and promote conflict resolution. And in post-conflict efforts to rehabilitate victims and promote peaceful development, it is equally crucial to maintain a concern for the needs of minority communities and their children. Furthermore, representatives of minority and indigenous groups should be involved in every stage of any process designed to achieve lasting political solutions to internal conflicts.

General recommendations

1. The international community should encourage states to ratify and implement human rights and minority rights instruments providing protection for children in armed conflicts, giving support and technical assistance where necessary.

2. International bodies should press for governments and judicial authorities to end the impunity of human rights violations, particularly against children, by bringing the perpetrators to trial. Domestic and international bodies should actively monitor human rights violations.

3. The Committee on the Rights of the Child should consider as a future topic for its discussions the rights of indigenous and minority children.

4. Decision-makers in governments and in intergovernmental and non-governmental, relief, emergency and development organizations, should take full account of how their policies and programmes will affect children from minority and indigenous groups. Programmes of relief, rehabilitation and development should be designed in collaboration with minority as well as majority communities.

5. The international community should advocate the inclusion of representatives of minority and indigenous groups in processes and negotiations designed to achieve political solutions to internal conflicts.

6. The right of voluntary repatriation should be ensured for displaced and refugee communities and their children. Repatriation should never be forced.

7. Host countries should make special provisions to ensure the cultural survival of the children of refugee and displaced communities.

8. Minority and indigenous children who are the victims of armed conflict should have access to culturally appropriate support to promote physical and psychological recovery and social reintegration; this should be available in all locations where such children reside.

1 *The Impact of Armed Conflict on Children*, Report of the expert of the Secretary-General, Ms Graça Machel, submitted pursuant to UN General Assembly Resolution 48/157, 26 August 1996, A/51/306, Add.1. Referred to throught this MRG Report as the UN Report.

2 See, for example, UNICEF Regional Office for Latin America and the Caribbean, *Indigenous Population in Latin America*, background paper for the Seventh Innocenti Global Seminar on Families and Children of Ethnic Minorities, Immigrants and Indigenous Peoples, Florence, October 1996.

3 Copies of the Seminar Report, *Minority Rights and Training 1997–2000*, London, MRG, 1997, are available from MRG.

4 For example, the British promulgated the Chittagong Hill Tracts Frontier Police Regulation in 1881 and the CHT 1900 Regulation. Under the Government of India Act (1921), the CHTs were declared to be 'backward tracts'. Under the Government of India Act (1935), the CHTs were made an 'excluded area'.

5 Chittagong Hill Tracts Commision (CHTC), *Life Is Not Ours, Land and Human Rights Violations in the Chittagong Hill Tracts*, Bangladesh, CHTC, 1991.

6 'Genocide in Bangladesh', *Survival International Annual Review*, no. 43, 1984.

7 Statement to the CHTC in 1990.

8 Arens, J., 'Winning heart and minds, where aid goes', paper presented at the Third International Chittagong Hill Tracts Conference, Hamburg, 13–17 September 1991.

9 *Ganakata*, 16 October 1980.

10 Bangladesh: *Unlawful Killings and Torture in the Chittagong Hill Tracts*, Amnesty International, AI Index: ASA/13/21/86.

11 Bangladesh was supposed to submit its first periodic report on 1 September 1992.

12 Interview with the author.

13 Geneva, 23–29 July 1995.

14 *Perpetrators Roam Scot-Free: The Naniachar Killings and Impunity in Bangladesh*, Jumma Peoples Network, 17 November 1995.

15 Report to the Fifty-first Session of the Commission on Human Rights, (E/CN.4/1995/61).

16 *In the Throes of Annihilation: Arbitrary Arrests, Detentions and Extrajudicial Executions of the Jumma Peoples of the Chittagong Hills*, New Delhi, Jumma Peoples Alert, 3 May 1993.

17 Shri Uttaran, 'A genesis of the movement of self determination of the Jumma people of Chittagong Hill Tracts and its future', *Dashoi November Sharane*, Jana Samhati Samiti publication, 10 November 1985.

18 *Life Is Not Ours, op. cit.*

19 *Urgent Action of the Jumma Peoples Network*, Berlin, 22 July 1995.

20 *Life Is Not Ours, op. cit.*

21 This idea is echoed in Article 15 of the Draft Declaration on the Rights of the Indigenous Populations and is further supported by Article 30 of the CRC.

22 *Jumma Sambad Bulletin*, 10 November 1993.

23 *Life Is Not Ours, op. cit.*

24 Telephone interview with UNHCR official, 20 May 1996.

25 Chakma, U., President of the Jumma Refugees Welfare Association, in his letter to the South Asia Human Rights Documentation Centre on 6 April 1995 stated that many of these items have not been provided since 1991.

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